

**OFFICIAL INFORMATION\*\*CONFIDENTIAL\*\*EVIDENCE CODE SECTION 1040  
INTRADEPARTMENTAL CORRESPONDENCE**

DATE: August 10, 2020

TO: Honorable Board of Police Commissioners

FROM: Inspector General

SUBJECT: OFFICER-INVOLVED SHOOTING 045-19 FOR 8/18/20 CLOSED-SESSION AGENDA

<b>Division</b>	<b>Date</b>	<b>Time</b>	<b>Duty-On (X) Off ()</b>	<b>Uniform-Yes (X) No ()</b>
-----------------	-------------	-------------	---------------------------	------------------------------

Harbor	9/23/19	6:23 p.m.		
--------	---------	-----------	--	--

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
--	--------------------------

Byrd, S./PO III	6 years, 4 months
Vocke, M./PO II	16 years, 2 months
Millan, D./PO II	4 years, 2 months

**Total Involved Officer(s)**

2 x Sgt. I  
3 x PO III  
5 x PO II

<b><u>Suspect(s)</u></b>	<b><u>Deceased (X)</u></b>	<b><u>Wounded ()</u></b>	<b><u>Non-Hit ()</u></b>
--------------------------	----------------------------	--------------------------	--------------------------

Raymond Hernandez: Hispanic Male, 63 years of age.

**COP Recommendations**

**Tactics** – Administrative Disapproval, Sergeants West and Huett along with Officers Vocke, Byrd and Blanco. Tactical Debrief, Officers Ramos, Millan, Kisling, Garcia, and Lindberg.

**Drawing/Exhibiting** – Out of Policy, Administrative Disapproval, Officer Byrd (First Drawing/Exhibiting) and Sergeant Huett. In Policy, No Further Action, Sergeant West, along with Officers Vocke, Ramos, Millan, Kisling, Byrd (Second Drawing/Exhibiting), Blanco, Garcia, and Lindberg.

**Non-Lethal Use of Force** – In Policy, No Further Action, Officers Byrd, Ramos, Garcia, and Lindberg.

**Lethal Use of Force** – In Policy, No Further Action, Officers Vocke, Millan, and Byrd.

## **IG Recommendations**

***Tactics*** – *Administrative Disapproval, Sergeants West and Huett along with Officers Vocke, Byrd, Blanco, Ramos, and Lindberg. Tactical Debrief, Officers Millan, Kisling, and Garcia.*

**Drawing/Exhibiting** – Same as COP.

**Non-Lethal Use of Force** – Same as COP.

**Lethal Use of Force** – Same as COP.

## **Table of Contents**

I.	Investigation	
i.	Annotated Force Investigation Division (FID) Incident Summary	p. 4
II.	Chief of Police Report	
i.	Chief of Police Findings	p. 44
ii.	Chief of Police Analysis	p. 44
III.	Inspector General Review	
i.	Inspector General Analysis	p. 82
ii.	Inspector General Recommendations	p. 83

## **INVESTIGATION**

**Synopsis:** Uniformed officers assigned to Harbor Patrol Division responded to a radio call of an Assault with a Deadly Weapon, shots fired, at 1000 Figueroa Street.<sup>1</sup> Officers arrived and encountered a nude male Hispanic, later identified as David Hernandez, acting erratic. As officers communicated with David, his father, later identified as Raymond Hernandez, walked into the street with his left hand raised above his head and his right hand concealed behind his back.<sup>2</sup> Raymond produced a pistol from behind his back, pointed it in the direction of officers, and an Officer-Involved Shooting (OIS) occurred.

### **Annotated Force Investigation Division (FID) Incident Summary**<sup>3</sup>

On Monday, September 23, 2019, at approximately 1800 hours, Witness Gabriel Carano was in his living room, on the east side of his residence, located at 1000 Figueroa Street space No. 39. According to Carano, he heard shouts and yelling coming from his neighbor's residence. Carano stood by his front door, located on the south side of his residence, and observed David outside in the carport of his residence, space No. 40, removing all his clothing.<sup>4</sup> According to Carano, David was yelling, "God has nothing over me. I'm bigger than God. King Kong ain't got nothing on me."<sup>5</sup> Carano, who had been in the living room with his wife, Witness Susie Avalos, exited his residence to try and calm David down (Investigators' Note No. 1).

Once outside, Carano asked David to put his clothes back on and go back inside his residence because Carano's family was at the window watching David. According to Carano, David's demeanor was confrontational and David began to assault him. David used his left foot and kicked Carano twice on his right shin. David also used his left fist and struck Carano once on the right side of his head. To defend himself against David's continued assault, Carano punched David approximately four times in his face and head. Due David's behavior, and the fact that his punches seemed to have no

---

<sup>1</sup> Merle's Manor II, located at 1000 Figueroa Street, is a mobile home community consisting of 87 individual mobile homes. All residences utilize the same address on Figueroa Street; however, each home is identified with an individual space number.

<sup>2</sup> For clarity, Raymond and David Hernandez will be referred to by their first name throughout this investigation.

<sup>3</sup> The Incident Summary presented here is reproduced from FID's report regarding this case and is supplemented with annotations by the OIG. All OIG annotations are referenced as an "OIG Note." All other references and citations in the reproduced FID Incident Summary (e.g., Investigators' Notes or Addenda Items) are reproduced directly from FID's report. Unless otherwise stated, all information provided in OIG annotations is derived from FID's investigation of this incident.

<sup>4</sup> The investigation determined David and Raymond resided in space No. 40. The carport area was on the north side of the residence.

<sup>5</sup> Witness Carano's statement, Page 9, Lines 10 – 12.

effect on him, Carano formed the opinion David was either suffering from mental illness or under the influence of narcotics.

According to Carano, while he and David were standing in the street, he observed Raymond approach from the driveway of space No. 40, holding what appeared to be a black Glock 9-millimeter handgun in his right hand.<sup>6</sup> Without saying a word, Raymond held the gun over his head, pointed it into the air, and fired one round. According to Carano, he immediately placed both his hands up, at shoulder level, with his palms facing forward, to indicate he didn't want any problems. Carano stated Raymond then brought the gun down to waist level, along his right hip, and pointed the gun at Carano, from an approximate distance of eight to ten feet. Carano was in fear for his safety, and believed his life was in danger, so he went back into his own residence.



The above image depicts the northwest portion of Merle's Manor II Mobile Home Park

**Note:** The mobile home park had private property street signs that identified paved roadways throughout the park. The incident occurred on Yellowstone Drive north of Sequoia Avenue.

From the window of her living room, Avalos witnessed David assault Carano. She also observed Raymond exit the adjacent mobile home, pick up David's clothing, and tell David to go back inside the residence. Raymond then went back inside his residence. According to Avalos, David did not comply with Raymond's request and remained outside. A short time later, Avalos was standing on the steps of her trailer when she observed Raymond exit his residence holding a small black handgun, which he held in

<sup>6</sup> According to Carano, he recognized both David as Raymond as his neighbors, but had only seen them on a few occasions.

his right hand. Without saying a word, Raymond fired a single shot into the air and then went back inside of his residence, followed by David. Avalos called 9-1-1 and reported the incident.

According to Witness Manuel Castro, he heard someone yelling outside on Yellowstone Drive, so he went outside to investigate. When he got outside, he observed David and Carano in a fighting stance. He then saw Raymond come outside and point a gun at Carano, telling him to leave David alone. Raymond then fired one shot into the air, and Castro went back inside to call 9-1-1.

In response to Avalos' 9-1-1 call, at approximately 1815:58 hours, Communications Division (CD) broadcast on Harbor frequency, *"Harbor Units, any Harbor Unit, ADW Shots Fired, 1000 Figueroa, 1-0-0-0 Figueroa, Space 40. Suspect is a male, has glasses, wearing a white T-shirt. Fired into the air, it's Code Three, Incident 4852; in RD 514."*

Harbor Patrol Division uniformed Police Officers II Diego Millan, Serial No. 42169, driver, and Paige Kisling, Serial No. 43412, assigned Unit 5X28W5, heard the radio call broadcast and decided to handle the call. Officer Kisling advised CD that they were responding from Harbor Station. While en route to the location Officer Kisling read the comments of the radio call to Officer Millan. They were driving a marked black and white sport utility vehicle (SUV), Shop No. 81500, which was equipped with ballistic door panels and a Digital in Car Video System (DICVS).<sup>7</sup>

**Note:** According to Officer Millan, this was their second time working together. Prior to their start of watch, Officers Millan and Kisling discussed contact and cover and tactics.

Officers Millan and Kisling indicated they were assigned Unit 5X28 and signed into their Mobile Digital Computer (MDC) accordingly; however, the Deployment Planning System (DPS) Daily Worksheet documented them as being assigned Unit 5X26.

Harbor Area uniformed Gang Enforcement Detail (GED) Police Officer III Sterling Byrd, Serial No. 41343, driver, and Police Officer II Jorge Blanco, Serial No. 41341, assigned Unit 5G63W5, along with Harbor Patrol Division uniformed Sergeant I James Huett,

---

<sup>7</sup>Officer Millan, four years and two months with the Department, 30 years of age, 5 feet 7 inches tall, 190 pounds, equipped with a ballistic vest, a Smith & Wesson, model M&P, 9-millimeter, semi-automatic pistol, Body Worn Video (BWV), Oleoresin Capsicum (OC) spray, an X26 TASER, one set of handcuffs, a Hobble Restraint Device (HRD) and an ASP collapsible baton. Officer Millan had a 40-millimeter (mm) Less Lethal Launcher (LLL) in the trunk of the police vehicle; Officer Kisling, one year and eight months with the Department, 25 years of age, 5 feet 3 inches tall, 128 pounds, equipped with a ballistic vest, a Smith & Wesson, model M&P, 9-millimeter, semi-automatic pistol, BWV, OC spray, an X26 TASER, an ASP collapsible baton, two set of handcuffs and a HRD.

Serial No. 34679, assigned Unit 5L130W5, also advised CD they were responding to the radio call.<sup>8</sup>

In response to Castro's 9-1-1 call, at approximately 1817:28 hours, CD broadcast, *"Harbor Units and 5X28, 5X28, Shots fired in the area of 1000 Figueroa Street. 1000 Figueroa Street, Suspect, male, Hispanic, tattoos, completely nude in the middle of the street. PR heard one gunshot, Code 3, Incident No. 4862 RD 514."*

**Note:** According to Castro, he did not tell the 9-1-1 operator that he saw Raymond with a gun because, *"I didn't want to give a lot of information."*<sup>9</sup>

Moments later, CD also broadcast, *"5X28 it's related to your current call. I'll show you handling."*

Harbor Patrol Division uniformed Police Officers II Matthew Vocke, Serial No. 37062, and Keno Ramos, Serial No. 42173, assigned Unit 5Q62W5, and Harbor Area uniformed GED Sergeant I Jessie West, Serial No. 34310, assigned Unit 5G60W5, also broadcast they were responding to the location (Investigators' Note No. 2).<sup>10</sup>

Upon gathering additional information from Avalos, at approximately 1818:12 hours, CD broadcast, *"5X28 and Harbor units responding to the ADW Shots Fired at 1000 Figueroa Street. Suspect No. 1 is a male, Hispanic, possibly under the influence; he's a 311 man and Suspect No. 2 is a male, Hispanic, elderly, now inside of his residence; additional on incident No. 4852."*

At approximately 1818:32 hours, as Officers Millan and Kisling arrived at the entrance to the mobile home park, Officer Kisling placed them Code Six over the radio and requested a better location from CD. As Officer Millan drove the police vehicle into the mobile home park, he turned north onto Yellowstone Drive. Officers Millan and Kisling's DICVS captured Witness Francisco Martinez standing on the east side of Yellowstone

---

<sup>8</sup> Officer Byrd, 35 years of age, 6 feet 6 inches, 275 pounds, 6 years and 4 months with the Department, equipped with an ASP collapsible baton, OC spray, two pair of handcuffs, a 9-millimeter Glock, Model 17, semi-automatic pistol, BWV, an X26P TASER, two pair of handcuffs, and a ballistic vest; Officer Blanco, 33 years of age, 5 feet 5 inches, 195 pounds, 6 years and 4 months with the Department, OC spray, two pair of handcuffs, a HRD, a flashlight, a Glock 9mm semi-automatic pistol, BWV, an X26P TASER, a ballistic vest, and a 40 millimeter less-lethal launcher.

<sup>9</sup> Witness Castro's statement, Page 5, Lines 3-6.

<sup>10</sup> Officer Vocke, 40 years of age, 5 feet 9 inches, 200 pounds, 16 years 2 months with the Department, equipped with an ASP collapsible baton, BWV, OC spray, a flashlight, two pairs of handcuffs, a X26 TASER, a 5.56x45mm caliber Colt M16A1 rifle, and a ballistic vest; Officer Ramos, 38 years of age, 5 feet 7 inches, 170 pounds, 4 years 2 months with the Department, equipped with an ASP collapsible baton, BWV, OC spray, a flashlight, one pair of handcuffs, a HRD, a X26 TASER, a Smith and Wesson 9-mm semiautomatic pistol, and a ballistic vest.

Drive near space No. 61.<sup>11</sup> Martinez pointed with his left hand and directed officers' attention further north, along the west side of the street.

Officer Kisling's BWV captured the officers stop alongside Martinez as Officer Kisling lowered her passenger window and Officer Millan asked Martinez, "*Who's the guy?*" Martinez replied, "*The guy out there, like the second trailer from this side. He had a gun and everything.*" Officer Kisling's BWV then captured her pointing to the left, directing Officer Millan's attention to the northwest portion of the mobile home park.

**Note:** According to Officer Millan, Martinez was pointing to the suspect, but they did not communicate with him.

Officer Millan drove the police vehicle further north on Yellowstone Drive. Officers Millan and Kisling's DICVS captured a male and female walking south on Yellowstone Drive, along the west side of the street.<sup>12</sup> Officer Millan parked their police vehicle front of space No. 42, and they exited the vehicle.

Officer Millan's BWV captured him ask the female, "*What house is it?*" Before the female could answer, the officers' DICVS captured Carano walk east onto Yellowstone Drive from space No. 39, followed by Pedro Avalos.<sup>13</sup> The DICVS also captured Officer Kisling state, "*Someone's coming out*"

Upon observing Carano, Officer Millan asked the female if he was the suspect. Officer Millan's BWV captured her state, "Yeah." (Investigators' Note No. 3).

**Note:** According to Officer Millan, the female replied that he (Carano) was not the suspect and the suspect was still inside of the house.

Upon exiting their vehicle, both Officers Millan and Kisling unholstered their pistols. According to Officer Millan, he unholstered due to the comments of the call indicating that shots had been fired. He held his service pistol in his right hand in a one-handed low ready position, with his finger along the frame.

According to Officer Kisling, based on the comments of the call and bystanders stating they observed a gun, she believed the situation could escalate to the point of deadly force and unholstered her pistol. Officer Kisling held her gun in a two-handed low ready position with her finger along the frame.

---

<sup>11</sup> Martinez can be seen on Officers Millan and Kisling's DICVS wearing a dark red shirt and tan shorts.

<sup>12</sup> The male can be seen wearing a dark hat and grey shirt, while the female can be seen wearing a burgundy shirt and dark pants.

<sup>13</sup> Carano can be seen on Officers Millan and Kisling's DICVS wearing a white tank top and long dark shorts. Pedro Avalos was wearing a white T-shirt and tan shorts.



Officer Kisling's BWV captured Witness Manuel Castro approach her and advise her to be careful because he believed the suspect was armed with a gun.<sup>14</sup>

Officer Millan walked north, past the front bumper of the police vehicle. Simultaneously, Carano was captured on Officer Millan's BWV waving his arm saying, *"Not me. It's not me,"* and he threw a stick-like object in a westerly direction, toward a line of bushes at the front of his residence.

Officer Millan's BWV captured him lower his pistol and direct Carano to, *"Get out of the way,"* as he pointed with his left hand to the east side of Yellowstone Drive. As Carano began to move to the east side of the street, Carano pointed in a westerly direction and Officers Millan and Kisling's DICVS and BWV captured a male voice yelling indiscernibly. According to Officer Kisling, she redeployed to the west side of Yellowstone Drive for better cover. Officer Kisling's BWV captured her walk in front of the police vehicle, and redeploy to the west side of the street, to the left of Officer Millan. As she approached Officer Millan, her BWV captured her advising him, *"Someone's coming out."*

David, who was completely naked, emerged from the walkway on the south side of space No. 40 and walked into the middle of Yellowstone Drive. Officer Millan ordered David to get on the ground. Officer Millan and Kisling's DICVS captured David turn his head to the right, in their direction and raise both his arms in the air. David then faced away from the officers and placed himself face down on the ground in a prone position, with his head facing north and his arms and legs spread apart.

According to Officer Millan, as he was giving David commands, he realized he was in front of their police vehicle and redeployed to the east side of the street. As Officer Millan redeployed, his BWV captured him hold his pistol in his right hand, while using his left hand to wave at Carano and Pedro Avalos, who were standing north of David, while ordering them to return to their residence.

As he continued to the east, Officer Millan removed his radio from its holder with his left hand and broadcast they had a suspect at gunpoint. Officer Millan then stood on the northeast corner of Yellowstone Drive and Sequoia Avenue and again ordered Carano to get inside his residence.

According to Officer Kisling, since David was naked, and she could clearly see he did not have a gun, she followed behind Officer Millan, holding her pistol in a two-handed low ready position as she moved east across the street. Officer Kisling's BWV also captured her ordering Carano and Pedro Avalos to get back in their residence. Once across the street, she initially stood to the west of Officer Millan, then redeployed just east of him, where she believed she had better cover.

---

<sup>14</sup> Castro can be seen on Officer Kisling's BWV wearing a dark short sleeved shirt, a baseball cap, and tan pants.

Carano and Pedro Avalos did not immediately follow the officers' directions to enter their residences and they remained on opposite sides of Yellowstone Drive, north of David. Officer Millan's BWV captured Carano walking west across Yellowstone Drive and Officer Millan again ordering Carano to get back inside his house. Carano can be heard yelling, *"I am"* as he continued to walk west toward space No. 39.

Officer Millan and Kisling's DICVS also captured Yolanda Avalos exit from the area of space No. 39 and stand near Pedro Avalos. Yolanda Avalos appeared to briefly face south on Yellowstone Drive and then quickly retreat toward her residence, out of sight.

While Officer Millan was continuing to direct Carano back to his residence, David stood up, put his hands in the air, and turned around to face south toward the officers. Officer Millan ordered David to get on the ground and not to move. David complied and placed himself in a prone position on the ground with his head facing south, and his arms and feet spread.

Officers Millan and Kisling remained at the northeast corner of Yellowstone Drive and Sequoia Avenue and awaited the arrival of additional units.

At approximately 1820:03 hours, Officer Millan broadcast, *"X28 we're gonna be inside the trailer park. Advise the units right when they get in, make a left. We got a suspect on the ground. He's not armed with a gun."* CD repeated the information provided by Officer Millan and requested a space or unit number. At approximately 1820:38 hours, Officer Millan replied, *"X28 Roger, we are inside the address it's gonna be Space 41."*

While awaiting the arrival of additional units, Officer Millan's BWV captured Carano reappear near his trailer, and Officer Millan ordered him to go back inside his residence. David continued to lay in the prone position and yell non sequiturs, including, *"I'm sorry God. Forgive me for my sins! Give me back the world!"*

At approximately 1818:50 hours, Officer Byrd deactivated his Code Three equipment as he drove south on Figueroa Street from Pacific Coast Highway. As officers approached the area of the call, Officer Byrd unholstered his service pistol with his right hand and used his left hand to steer the police vehicle. According to Officer Byrd, he held his pistol between his legs, with the muzzle pointed down, and his finger along the frame (Investigators' Note No. 4).

According to Officer Byrd, he was aware of multiple shootings in the City of Wilmington and that the local gang was Westside Wilmas. Regarding his decision to unholster his pistol, Officer Byrd further stated, *"In my opinion, the shots fired calls - - or comments of the call kept arising. In my opinion, I felt the need - - because we were in a tactical situation."*<sup>15</sup> He further added there were multiple cars on the west side of the street and he could not see between them and, *"I didn't know if the suspect ran from the*

---

<sup>15</sup> Officer Byrd's statement, Page 8, Lines 1-4.

*location going northbound and could be hiding between cars*<sup>16</sup> Officer Byrd stated that once he heard the unit broadcast they had the suspect prone out, he holstered his pistol.

At approximately 1821 hours, Officers Ramos and Vocke arrived at scene, followed by Officers Byrd and Blanco and Sergeants Huett and West, who all placed themselves Code Six upon arrival.

**Note:** The above units all arrived at scene within approximately 30 seconds of each other.

When he arrived in the area of the call, Officer Byrd placed himself Code Six over the radio at approximately 1819:08 hours; however, he and Officer Blanco did not physically arrive at scene until the approximate time indicated above.

Officer Ramos parked their police vehicle slightly south and east of Officers Millan and Kisling's vehicle. Officer Ramos walked over and stood behind the open driver's door of Officers Millan and Kisling's vehicle, where he activated his BWV. According to Officer Ramos, believing the incident was going to escalate to the point deadly force may be necessary, and because the radio call involved a possible gun, he unholstered his service pistol, which he held in his right hand, down by his right side. The muzzle of his pistol was pointed to the ground, and his finger was along the frame. He also placed himself Code Six over the radio.

Simultaneously, Officer Vocke exited his vehicle and moved to the trunk, where he retrieved his police rifle from its soft case within the vehicle's trunk. According to Officer Vocke, the rifle had a magazine already seated in the magazine well, but a round was not chambered. Officer Vocke pointed the rifle into the air and conducted a chamber check before chambering a round.<sup>17</sup>

According to Officer Vocke, *"Knowing that it's a shots fired radio call already, that's why I deployed the rifle just because of the situation could arise to the use of deadly force. And more specifically the rifle is more accurate for distance. And because of the distance we had, I felt like I should use it. Just have a more accurate shot, if needed."*<sup>18</sup>

Officer Vocke then moved toward his open passenger door and activated his BWV. His BWV captured Castro approach him and state, *"Search the house, the yellow house, because I believe they have a gun."* Officer Vocke replied, "Ok," and he slung the police rifle over his neck and right shoulder.

---

<sup>16</sup> Officer Byrd's statement, Page 8, Lines 7-9.

<sup>17</sup> Officer Vocke completed the Department's Patrol Rifle course on January 7, 2010. At the time of the incident, he was an active member of the Department's rifle cadre.

<sup>18</sup> Officer Vocke's statement, Page 8, Lines 12-18.

According to Officer Millan, he observed Officers Ramos and Vocke arrive and his BWV captured him advising Officer Kisling to hold her position, which she acknowledged. Officer Millan then re-deployed to the open passenger door of his police vehicle, and advised Officer Ramos that the suspect did not have a gun. Officer Ramos' BWV captured him reply, *"Ok, we're just gonna get the beanbag,"* as he motioned with his left hand and pointed south. Officer Ramos then holstered his pistol.

When Officers Byrd and Blanco arrived, Officer Byrd parked just south and slightly west of Officers Millan and Kisling's vehicle. As Officer Byrd exited his police vehicle, he unholstered his pistol, holding it in his right hand with the muzzle pointed to the ground, as he walked north toward Officer Ramos. According to Officer Byrd, he unholstered his pistol because a gun was supposed to be involved in the call and he believed there was a second suspect involved who may suddenly appear. Officer Byrd deployed to the left of Officer Ramos, next to the open driver's side door of Officers Millan and Kisling's vehicle, and stood in a two hand, low-ready position with his pistol pointed north and his finger along the frame. Officer Byrd's BWV captured him advising Officer Ramos that his partner was deploying less lethal munitions. The BWV also captured him asking Officer Millan where the second suspect listed in the comments of the call was. Officer Millan indicated to him that all the witnesses were pointing to David when they arrived.

**Note:** According to Officer Byrd, he unholstered after speaking with Officer Ramos at the vehicle door; however, Officer Vocke's BWV captured Officer Byrd with his pistol already unholstered as he walked north toward the police vehicle.

When Officer Byrd walked north to meet with Officer Ramos, Officer Blanco exited his vehicle, and retrieved the 40-millimeter (mm) Less Lethal Launcher from the trunk of their vehicle. As Officer Blanco walked north toward his partner, he opened the breach and inserted a 40-mm round into the chamber, making the weapon ready to be discharged. Officer Blanco then stood behind Officers Ramos and Byrd, next to the driver's side of Officers Millan and Kisling's vehicle. He held the 40-mm less lethal launcher in a low-ready position.

When Sergeant Huett arrived at approximately 1821:22 hours, he parked his vehicle slightly south and east of Officers Byrd and Blanco's vehicle, and exited.

**Note:** According to Sergeant Huett, he believed Sergeant West was already at scene upon his arrival and was the Incident Commander. However, an analysis of the video evidence determined Sergeant Huett arrived shortly before Sergeant West.

Sergeant Huett then walked north on Yellowstone Drive, toward Officer Vocke, as Castro was starting to provide the information to Officer Vocke about the suspect armed with a gun. Sergeant Huett's BWV also captured this conversation, and Sergeant Huett can be seen pointing in a northwesterly direction with his right hand and stating, *"This*

*one here?"* Castro began to walk away while Sergeant Huett asked Officer Vocke, *"Hey you know what? Did anybody see somebody with a gun?"*<sup>19</sup> Officer Vocke then called out to Castro, who again walked south toward them. Sergeant Huett asked Castro if he saw someone with a gun. As Castro began to answer him, Sergeant Huett's BWV captured Officer Kisling yelling commands to, *"Go back"* and *"Show both your hands!"* Castro turned to look north and can be heard stating, *"That guy, that guy, he does, he does!"* as he ran away in an easterly direction. Castro then stopped and stood in the street Sequoia Avenue, just east of space No. 59.<sup>20</sup>

Sergeant Huett moved north and stood behind the open passenger door of Officers Ramos and Vocke's vehicle. According to Sergeant Huett, he observed Raymond standing near space No. 40, holding his right hand behind his back. Due to the comments of the shots fired call, and the fact that Raymond matched the suspect's description, Sergeant Huett believed Raymond was possibly armed. Believing the situation would escalate to the use of deadly force, Sergeant Huett unholstered his pistol to a two-handed low ready position with his finger along the frame.

At approximately 1821:35 hours, Sergeant West arrived and parked his police vehicle just south and west of Officers Millan and Kisling's vehicle. Sergeant West exited and walked north on Yellowstone Drive, momentarily standing behind Officers Byrd and Ramos. According to Sergeant West, he immediately began to formulate a plan. He observed three officers with their guns drawn, and wanted to have less lethal available. Sergeant West believed he called for a 40-mm launcher. When Sergeant West observed one of the officers was already equipped with one, he, *"Began to get -- get him in position to encounter the male Hispanic that was downrange from us."*<sup>21</sup>

**Note:** Sergeant West's BWV did not capture him verbalizing a request for a 40-mm launcher, nor give verbal direction to any officer about where to position to deploy less lethal munitions prior to the OIS.

Sergeant West then redeployed to the east, and stood behind the open driver's door of Officers Ramos and Vocke's vehicle. According to Sergeant West, he asked Sergeant Huett if the male he was speaking with (Castro) was the PR, in order to gather as much information as possible about the incident. As Sergeant Huett started to answer, Sergeant West observed Raymond exit from behind a trailer, holding his left hand in the air, and his right hand concealed behind his back. According to Sergeant West, he tried to verbalize with Raymond, ordering him to show his hands.<sup>22</sup> When he observed

---

<sup>19</sup> Gleaned from Sergeant Huett's BWV at approximately 1821:40 hours.

<sup>20</sup> Gleaned from Sergeant Huett's BWV at approximately 1821:54 hours. At this same time on Officer Kisling's BWV, Carano can be seen in the background standing near his trailer. Raymond can also be seen beginning to walk onto the street with his left hand raised in the air and his right hand behind his back.

<sup>21</sup> Sergeant West's statement, Page 7, Lines 14-16.

<sup>22</sup> At approximately 1821:57 hours, Sergeant West's BWV captured him stating, *"Hands, hands!"*

Raymond exit the trailer, Sergeant West stated that he instinctively began to unholster his pistol. He stated, *“As quickly as I went to it, I immediately – I – it may have been half out, half in. I immediately realized my role in this. Reholstered the weapon.”*<sup>23</sup>

According to Sergeant West, he did not verbally identify himself as the Incident Commander. However, he indicated, *“Working with my gang guys day in and day out, and the way that I took command and control and established command and control of the incident, and with the orders and directions that I was giving the officers, I am one hundred percent certain that the officers knew that I was in command and control of, you know, of the situation. I was incident commander.”*<sup>24</sup>

Meanwhile, Officer Vocke had moved to the rear of his police vehicle and reopened the trunk to obtain his vest carrier, which contained additional magazines for his Patrol Rifle. He was standing to the rear of his vehicle with the trunk open when he observed Raymond appear, holding his left hand in the air and his right hand behind his back. Officer Vocke left the vest carrier in the trunk and placed his rifle in a low-ready position, and walked toward the driver side of Officers Millan and Kisling’s police vehicle.

As Officer Vocke was walking towards the driver’s door of Officer Millan and Kisling’s vehicle, his BWV captured the sound of a metallic click, similar to that of the rifle’s safety disengaging, as he was raising his rifle. He took several more steps forward, before taking a position to the left of Officers Byrd and Ramos, slightly left of the open door. According to Officer Vocke, *“There was no cover there. I wanted to still be able to see the front of the house. If I would have deployed further west, I couldn’t see anything of the house if somebody else had come out. That’s why I stayed there.”*<sup>25</sup>

**Note:** Officer Vocke did not recall exactly when he disengaged the safety, but stated he is trained to disengage the safety when coming up on target.

At approximately 1821:51 hours, Officers Millan and Kisling’s DICVS captured Raymond exit from the north side of his mobile home and begin to walk south along the west side of Yellowstone Drive, toward officers. He was holding his left arm in the air, and had his right arm concealed behind his back. As Raymond was approximately parallel with David, David pushed himself up into a standing position, with both his hands raised above his head. Raymond then began side stepping east toward David, who was in the middle of the street, while continuing to face officers and keep his right arm concealed behind his back.

Raymond continued to side-step toward David, with his hands in the same positions, as David began to walk further east. When he reached the middle of the street, Raymond momentarily positioned himself in front of David, then turned to look over his left

---

<sup>23</sup> Sergeant West’s statement, Page 33, Lines 13-16.

<sup>24</sup> Sergeant West’s statement, Pages 16-17, Lines 23-4.

<sup>25</sup> Officer Vocke’s statement, Page 15, Lines 7-11.

shoulder, back toward David. David continued moving east, and Raymond then walked slightly south and west, all the while keeping his right hand concealed. Raymond stopped, held his left arm out parallel to the ground, and waved his arm back toward himself, as if he were motioning for David to follow him.

According to Officer Blanco, when he saw Raymond concealing his hand behind his back, and heard officers first giving Raymond commands, he started to redeploy to the right side of Officer Millan and Kisling's vehicle, due to the fact other officers were in front of him. When he reached the rear of the vehicle, Officer Blanco indicated he kept hearing officers issuing Raymond commands to put his hands in the air and he knew something wasn't right.

While Officer Blanco was at the rear of the vehicle, standing next to Sergeant West, Sergeant West's BWV captured him state, "*Hey, get a gun on him and get ready to go.*"<sup>26</sup> Sergeant West then redeployed behind Officers Byrd, Ramos, and Vocke, on the driver's side of Officers Millan and Kisling's vehicle.

According to Officer Blanco, once at the rear of the police vehicle, he observed Raymond standing behind David. Officer Blanco's BWV captured him unholster his pistol with his right hand and initially hold it in a one handed low ready position, with his muzzle pointed north. Officer Blanco then ordered Raymond in both English and Spanish to get on the ground. Officer Blanco can then be seen on BWV raising his pistol higher, still pointing the muzzle north, in what he described as a "High low ready." According to Officer Blanco, he unholstered his pistol due to the fact that Raymond was hiding his hand behind his back, and he believed Raymond may be armed (Investigators' Note No. 5).

Meanwhile, officers were verbalizing with Raymond and David in English to show their hands and to get on the ground. The DICVS also captured Sergeant West advising officers to give commands in Spanish. David began to prone himself out on the pavement, with his head facing south toward officers. David was almost completely down on the ground again when Raymond walked east toward him, positioned himself behind David, and raised his left arm back up in the air. Once Raymond was behind him, David pushed himself into a standing position with his hands in the air, directly in front of Raymond.

**Note:** From the time Raymond appeared near the trailer, to the time of the OIS, BWV and DICVS captured officers continuously giving him verbal commands to show his hands and to get on the ground. Officers Kisling, Byrd, Millan, and Blanco all issued commands to Raymond.

Officer Blanco did not recall giving Raymond any commands.

**The following section describes the actions and observations from the individual shooting officer's perspective during the OIS. The investigation determined all**

---

<sup>26</sup> Gleaned from Sergeant West's BWV at approximately 1822:06 hours.

**three officers involved fired nearly simultaneously. Therefore, the order in which the perspectives are presented does not represent the chronological order in which the officers discharged their weapons. Unless otherwise indicated, the officer's perspective is based on their statement.**

**According to Officer Vocke**, once at the driver's door of Officers Millan and Kisling's vehicle, he shouldered his rifle and pointed it at Raymond. It appeared to Officer Vocke that Raymond had stepped behind David *"to use him as a shield."* Raymond then took a half a step to his right, exposing the right side of his body, as he moved his right hand out from behind his back. Officer Vocke observed Raymond's right hand holding a black pistol, which he pointed in Officer Vocke's direction. It appeared to Officer Vocke that Raymond was attempting to acquire a target with his pistol, so he aimed the rifle at the right side of Raymond's chest, because he did not want to hit David, and discharged his first round.

After firing his first round, it appeared to Officer Vocke that Raymond stumbled or walked forward, but continued to point the pistol in his direction. Raymond was now almost completely out from behind David, still pointing the pistol toward him, and Officer Vocke discharged his second round. Raymond started to go down onto his left knee; however, he continued to point the gun in his direction, so Officer Vocke aimed at Raymond's center body mass and discharged an additional round. Once Raymond fell to the ground onto his back, Officer Vocke stopped firing. According to Officer Vocke, he discharged his rifle, *"Slow and deliberate until he was no longer a threat."*<sup>27</sup>

**Note:** Officer Vocke believed he discharged approximately three to four rounds. The investigation determined that he discharged five rounds from an approximate distance of 53 feet.

**According to Officer Byrd**, as Raymond was behind David, Raymond moved a foot or two away from David and swung his right hand out from behind his back. Officer Byrd observed the muzzle of a black pistol coming up in Raymond's right hand, pointing in his direction. Believing he was going to get shot by Raymond, Officer Byrd aimed at the center of Raymond's upper torso and discharged approximately two to three rounds from his pistol to stop the deadly threat; however, the rounds did not appear to have an effect on Raymond, and he was still standing.

Due to his tall stature, Officer Byrd believed his head and neck were exposed and he began to lower himself into a kneeling position behind the vehicle door for additional cover. According to Officer Byrd, Raymond's pistol was still pointed at him, so as Officer Byrd lowered himself on to his left knee, he aimed his pistol through the open driver's window at Raymond's upper torso and discharged approximately three to four additional rounds. As he was firing his third and fourth round of this second volley, Officer Byrd opined his rounds were making contact with Raymond, and Raymond began to fall. As he did so, the pistol was still in Raymond's hand; however, it was no

---

<sup>27</sup> Officer Vocke's statement, Page 25, Lines 16-17.



longer pointed at Officer Byrd. Once Raymond fell to the ground on his back, Officer Byrd no longer saw the pistol, and he stopped firing.

**Note:** Officer Byrd believed that he discharged approximately four to seven rounds from an approximate distance of 20-25 feet. The investigation determined that he discharged eight rounds from an approximate distance of 52 feet.

As Raymond was behind David, Officer Millan observed Raymond take a step to his right, going around and in front of David. As he did so, Raymond brought his right hand out from behind his back toward the front of his body. Officer Millan observed Raymond holding a black semi-automatic handgun, which Raymond pointed in their direction. Officer Millan sat halfway in the front passenger seat of his vehicle, with his right leg outside of the vehicle on the ground and left leg inside of the vehicle. He had his pistol extended in a two-handed grip between the "A" pillar of the windshield and the open door, with his muzzle pointed north toward Raymond. As Raymond pointed the gun in their direction, Officer Millan heard multiple rounds being fired and believed Raymond was firing at him. Officer Millan, fearing for his life, aligned his sights on Raymond's chest, and discharged approximately five rounds. After his last round, Officer Millan assessed and observed Raymond collapsing to the ground.

**Note:** Officer Millan believed he fired approximately five rounds from an approximate distance of 25 to 30 feet. The investigation determined he discharged nine rounds from an approximate distance of 51 feet.

The investigation determined that approximately 30 seconds elapsed from the time Raymond appeared on Officers Millan and Kisling's DICVS to the time of the OIS.

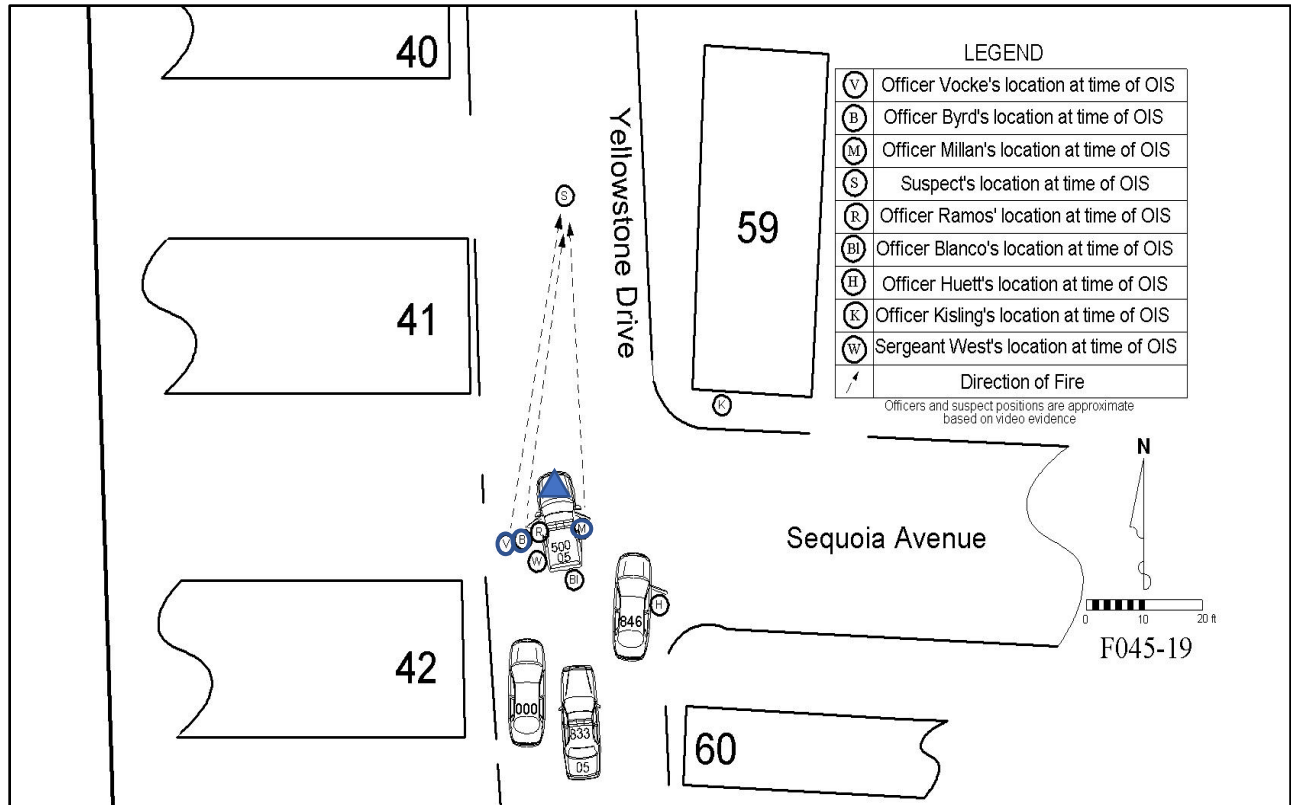
**OIG Note No. 1:** *According to Officer Millan, "I believe I shot the nine rounds, because at the time I believe I only shot five. Now that I know it was nine. But I shot all rounds one after the other one. After the nine rounds that's when I assessed. [...] I feel I shot five. After the fifth round that I feel that I shot, that's when I assessed and that's when I noticed that the suspect was go -- like he was collapsing to the ground."*<sup>28</sup>

---

<sup>28</sup> Officer Millan, Page 28, Lines 6-22.

The following diagram depicts the approximate location of the officers and Raymond during the OIS.

[...]



At approximately 18:22:28 hours, Sergeant West broadcast, "George 60, Officer needs help! Shots fired!"

The following section contains the actions and observations from the individual witnessing officer's perspective during the approximate time of the OIS. Unless otherwise indicated, the officer's perspective is based on their statements.

Officer Kisling remained behind the cover of the trailer at the northeast corner of Yellowstone Drive and Sequoia Avenue with her gun in the low ready position. Officer Kisling knew the officers south of her were covering David and Raymond. Regarding her decision to hold her position, Officer Kisling stated, "*I didn't necessarily wanted to go back with the other officers because I would have been in a complete opening for if the male did have -- if that was indeed a gun behind his back, I would have been completely exposed. So I stayed along that trailer on the northeast corner for coverage.*"<sup>29</sup>

<sup>29</sup> Officer Kisling's statement, Page 28, Lines 15-21.

While remaining behind the cover of the trailer, she did not witness Raymond bring his arm up holding the pistol, nor did she observe officers discharge their firearms, but heard approximately eight to 12 rounds being fired. Based on her position, Officer Kisling did not believe she was in the background of the officers that fired.

According to Officer Ramos, Raymond refused to follow officers' commands, and he believed that Raymond may have a weapon, so he pointed his pistol at Raymond and placed his finger on the trigger. When Raymond took a position of cover behind David, Officer Ramos moved his pistol to a low ready position. Raymond then removed his right hand from behind his back and Officer Ramos observed a black pistol in Raymond's right hand, which he pointed in Officer Ramos' direction. According to Officer Ramos, he attempted to obtain a better sight picture, but he didn't have a shot, so he did not fire his pistol. He then heard approximately ten gunshots from his left and right sides. Officer Ramos ducked down behind the police vehicle door for cover. Once the gunfire stopped, Officer Ramos looked up and observed Raymond on the ground.

Officer Blanco was standing behind the right rear bumper of Officers Millan and Kisling's vehicle with his pistol drawn in a one-handed grip when he heard multiple gunshots.<sup>30</sup> During the OIS, Officer Blanco's BWV captured him crouch slightly behind the rear bumper of the vehicle, before setting the 40-mm less lethal launcher on the ground at the rear of the vehicle. Officer Ramos can then be seen acquiring a two-handed grip on his pistol, standing back up, and aiming his muzzle north again. Regarding his decision to place the 40-mm less lethal launcher on the ground, he indicated it was so he could unholster because Raymond was hiding his hands. Regarding his decision to set the 40-mm less lethal launcher on the ground in lieu of using a sling, Officer Blanco indicated, *"I didn't sling it on my body from the get-go. So I just put it down."*<sup>31</sup> According to Officer Blanco, when he looked back toward Raymond, he observed him on the ground and David was walking toward Space 40.

**Note:** According to Officer Blanco, he placed the 40-mm less lethal launcher on the ground before unholstering his pistol.

Sergeant Huett was behind the open passenger door of Officers Vocke and Ramos' vehicle with his pistol pointed north toward Raymond. While Raymond was standing behind David, Sergeant Huett observed Raymond bring his right hand out from behind his back, holding a dark colored handgun. Sergeant Huett stated he did not fire his pistol because he knew other officers were in a position to engage Raymond.

After Raymond took a position behind David, Sergeant West observed Raymond bring his right hand around his body, which was holding a handgun. He observed Raymond point the gun at them, and the OIS occurred. As officers fired at Raymond, Sergeant West redeployed to the rear of the vehicle for better cover.

---

<sup>30</sup> Officer Blanco was unsure of how many gunshots he heard.

<sup>31</sup> Officer Blanco's Statement, Page 18, Lines 6-9.

Once Raymond was on the ground following the OIS, Sergeant West began to think of containment and knew that he could not direct officers to go downrange until he confirmed that Raymond could no longer access the pistol. Sergeant West noted that Raymond's right hand was away from his body and observed the pistol about one to one and a half feet away from his hand. Sergeant West directed the 40-mm less lethal launcher to be deployed and his BWV captured him state, *"Hey, 40 up, 40 up, get that 40."* Almost simultaneously, Sergeant Huett's BWV captured him ordering David to get on the ground. He then holster his pistol and call for a beanbag. According to Sergeant Huett, he was unaware an officer on scene already had 40-mm less lethal launcher deployed.

Following the OIS, Officer Blanco observed David get back up and attempt to make his way back to his trailer. Observing that David wasn't armed, Officer Blanco holstered his pistol and picked up the 40-mm less lethal launcher from the ground. Officer Blanco moved forward, next to Officer Millan, and stood behind the open front passenger door of Officer Millan and Kisling's vehicle. Officer Blanco then stated, *"40's up,"* as he pointed the launcher at David.

At approximately 1822:41 hours, Sergeant West broadcast, *"5G60 stand-by, the suspect is down. We are dealing with another suspect. G60 hold the frequency, let me have the air."* Officer Millan continued to verbalize with David, ordering him to the ground.

At 1822:55 hours, Sergeant Huett broadcast, *"5L130, let me get an RA for a male, Hispanic, approximately 50 to 60 years old, suffering from gunshot wounds."*

Harbor Area Vice plain clothes Police Officers III Hugo Garcia, Serial No. 36589, and Christopher Lindberg, Serial No. 41649, assigned 5V1, driving an unmarked blue Buick Regal, heard the shots fired radio call and also responded to the incident.<sup>32</sup> According to Officers Garcia and Lindberg, they arrived at scene and were just exiting their vehicle when the OIS occurred, and they each heard approximately 10 rounds being fired. Officer Garcia donned his ballistic vest and Department raid jacket, while Officer Lindberg donned his tactical vest.<sup>33</sup>

**Note:** As plain clothes officers, Officers Garcia and Lindberg were not equipped with BWV.

---

<sup>32</sup> While en route to the call, both Officers Garcia and Lindberg indicated they had a tactical discussion about donning their equipment.

<sup>33</sup> Officer Lindberg, 29 years of age, 6 feet 2 inches, 185 pounds, 5 years 4 months with the Department, equipped with a flashlight, two pairs of handcuffs, an X26 TASER, a Smith and Wesson 9-mm semiautomatic pistol, and a tactical ballistic vest.

Officer Garcia, 44 years of age, 6 feet, 205 pounds, 17 years 11 months with the Department, equipped with one pair of handcuffs, a ballistic vest, Department raid jacket, and a Smith and Wesson 9-mm semiautomatic pistol.

***OIG Note No. 2: Officers Garcia and Lindberg's vehicle was not equipped with DICVS.***

At approximately 1822:56 hours, Sergeant Huett's BWV captured Officers Garcia and Lindberg walking north from their vehicle, which they parked on the west curb of Yellowstone Drive, just north of the entrance. Officer Lindberg took a position on the passenger side of Officers Millan and Kisling's vehicle, near Sergeant West, while Officer Garcia took a position on the driver's side, behind Officers Byrd, Ramos, and Vocke.

**Note:** According to Officer Garcia, their vehicle was equipped with a MDC, which he used to place himself Code Six upon arrival. However, the Incident Recall captured their Code Six time as approximately 1837:25 hours.

Meanwhile, Officers Millan and Kisling's DICV captured David slowly walk south toward the officers, stepping around Raymond's body. David was yelling incoherently while Officers Millan, Vocke and Blanco each gave commands for him to get on the ground. David stopped in the middle of Yellowstone Drive, south of Raymond's body and lowered himself into a kneeling position, facing officers. He continued to yell while repeatedly pushing himself up and down on his hands and knees and flailing his arms. Sergeant West moved behind Officers Millan and Blanco as his BWV captured him advising officers, *"We can't do anything until we get him into custody."*

Officers held their positions as David stood again, and slowly walked north on Yellowstone Drive. As he did so, Sergeant West's BWV captured him asking officers if Raymond's hands were empty. Officer Millan then yelled over to Officer Kisling, to ask if she could see Raymond's other hand.

According to Officer Kisling, she was directed to ascertain if she could see Raymond's hands. Officer Kisling moved west along the mobile home until she was able to observe Raymond's gun on the ground, approximately one to two feet north of Raymond's right hand. Her BWV captured her advising officers she observed a black object to the side of Raymond's hand.

According to Sergeant Huett, he observed Officer Kisling standing to the east side of a mobile home for cover. Sergeant Huett's BWV captured him using his right hand to direct Officer Kisling to move further west, toward the west end of the mobile home. According to Sergeant Huett, he then unholstered his pistol and traversed, northeast, from the passenger door of Officer Ramos and Vocke's police vehicle, to Officer Kisling's position behind the mobile home (space No. 59). As Sergeant Huett neared Officer Kisling, he placed his pistol in a low-ready position and stood behind her. Once behind Officer Kisling, Sergeant Huett directed her to maintain a visual on the yellow mobile home (space No. 40).

Meanwhile, Officer Millan and Kisling's DICVS captured David continue to walk north, in the middle of the street, until he reached Space 40. David raised his hands above his head and Officer Blanco yelled for David to get on the ground. The DICVS captured David turn west and go down onto both knees while keeping his arms above his head. David then placed himself into a prone position, with his head facing west, and his hands out in front of him.

According to Sergeant West, he could see a pistol approximately one and a half feet away from Raymond's hand. He now believed that David was a bigger threat than Raymond and indicated, *"My thoughts were we have to take action, we have to get downrange now in order to put separation between the weapon and the -- the male that was nude that was acting erratic."*<sup>34</sup> Sergeant West then directed a contact team to move forward.

**Note:** A review of BWV determined that Sergeant West did not verbally assign specific officers to a contact team or specifically assign roles to individual officers.

According to Officer Lindberg, he and Officer Garcia joined the contact team. Both Officers Lindberg and Garcia indicated they could see the gun on the ground near Raymond, and believed the situation could escalate to the use of deadly force, so they each unholstered their pistols.

Officer Lindberg held his pistol in a two handed low ready, with his finger along the frame, and walked north along the east side of Yellowstone Drive. Officer Millan was to his left, also armed with his pistol, and Officer Blanco was to his right, armed with the 40-mm less lethal launcher. Sergeant West followed behind Officer Blanco, and Officer Garcia trailed behind, and slightly west of Sergeant West, while holding his pistol in a one handed low ready.

As Sergeant West and the group of officers passed him, Sergeant Huett followed behind them, walking north. His BWV captured him aiming his pistol in a northwesterly direction, toward space No. 40, and advised officers to watch the yellow house as he continued walking north.

**Note:** According to Sergeant Huett, he holstered after speaking with Officer Kisling; however, his BWV captured him approach with arresting officers, using his pistol to cover the trailer at space No. 40.

When they reached Raymond, Sergeant West directed officers to, *"Watch the guy in the grey"* and also to leave the gun where it was.<sup>35</sup> Officers Millan, Lindberg, and Garcia

---

<sup>34</sup> Sergeant West's Statement, Page 11, Lines 8-11.

<sup>35</sup> Gleaned from Sergeant West's BWV between approximately 1823:48 and 1823:53 hours

stopped near Raymond's head. Officers Lindberg and Garcia continued to hold their pistols at the low ready while Officer Millan holstered his.

Officer Lindberg could be heard on Officer Millan's BWV directing him to don gloves.<sup>36</sup> Officer Millan started putting on gloves, then stopped, and proceeded to handcuff Raymond. Once Raymond was handcuffed, Officer Lindberg holstered his pistol (Investigators' Note No. 6).

According to Officer Millan, he observed Raymond did not appear to be breathing. Officer Millan donned latex gloves, searched him, and placed Raymond onto his left side. Officer Millan then pressed his fingers to the left side of Raymond's neck to check for a pulse; however, according to Officer Millan, he did not feel one.

As the officers and Sergeant West walked north on the east side of the street, Officers Vocke, Byrd and Ramos also started to walk north from the west side of the street, holding their respective weapons at the low ready. Officer Vocke's BWV captured him discussing areas of responsibility to cover with Officer Byrd, directing him to cover the yellow house, while Officer Vocke covered David (Investigators' Note No. 7).

Meanwhile, at approximately 1823:56 hours, Sergeant West's BWV captures him advising, "*Keep pushing on him*" as he and Officer Blanco continued to move north past Raymond, toward David. As they approached him, the BWV also captured David lifting his head off the ground, looking south at officers. Both Sergeant West and Officer Blanco ordered David to stay on the ground, which he did. They stopped by David's feet and Sergeant West called for two additional officers (Investigators' Note No. 8).

**Note:** According to Officer Byrd, Sergeant West had his pistol unholstered when he approached David; however, various BWVs clearly captured that Sergeant West was holstered during this time.

According to Officer Byrd, in response to Sergeant West's request, he holstered his firearm, and removed his handcuffs with his right hand as he approached David. Officer Byrd then placed his left knee in the middle of David's back. He used his left hand to grab David's right wrist and applied one ratchet of the handcuffs on David's right wrist.

According to Officer Byrd, as he applied the handcuff, David began resisting and attempted to place his right arm underneath his body. Officer Byrd then attempted to lock out David's right elbow to prevent him from placing his arm underneath his body. However, due to David being naked and perspiring, Officer Byrd began to slip off

---

<sup>36</sup> Los Angeles Police Department, Bloodborne Pathogen Exposure Protocol Field Notebook Divider, dated November 2012, described bloodborne pathogens as germs transmitted by exposure to blood or other potentially infectious body fluids. The document states the following: *Latex gloves shall be worn when contact with blood or other potentially infectious body fluids is anticipated and shall be changed after each contact.*

David's back. According to Officer Byrd, he decided to use bodyweight and placed his chest on top of David's back.

In response to Sergeant West's request, Officer Ramos holstered his pistol and went to assist Officer Byrd in handcuffing David. Officer Ramos's BWV captured him use his left hand to grab David's left forearm, and his right hand to grab David's right wrist; however, David was able to pull his hand free and placed it under his upper torso. Officer Ramos then reacquired a grip on David's wrist with his left hand and was able to use physical force and bodyweight to get David's arm out from underneath him. Once David's left hand was out from underneath him, Officer Ramos' BWV captured him switch his hand position, and grip David's left wrist with his right hand, while he placed his left forearm on David's upper left arm/shoulder area. According to Officer Ramos, he was able to use bodyweight to get David's arm out and apply a handcuff to the left wrist.

According to Officer Byrd, he was concerned there may be additional suspects inside of the mobile home and did not want to continue to struggle with David for a lengthy time, and possibly be shot at from someone inside the trailer. Officer Byrd felt that he had to hurry to end the struggle with David. Therefore, he used his left and right elbows and struck David on the front of his head. According to Officer Byrd, David tucked his head in at one point, so he continued to use his elbows to strike David on the back of his head to get David to comply. According to Officer Byrd, David placed his head against the ground and, while attempting another elbow strike, Officer Byrd's elbow struck the ground. Officer Byrd was unsure exactly how many elbow strikes he delivered stating, *"I was using my -- at first I was using my left, and I don't know how many times, but then I know I maybe hit him once or twice with my right."*<sup>37</sup>

**Note:** Although a thorough analysis of BWV and DICVS was conducted, investigators were unable to determine the precise number of elbow strikes delivered by Officer Byrd.

According to Officer Byrd, he was not injured during the incident.

As Officers Byrd and Ramos were struggling to control David, Officer Blanco, who was still armed with the 40-mm less lethal launcher, requested another officer to assist them. In response, Officer Garcia holstered his pistol and responded to assist. As captured on Officer Blanco's BWV, Officer Garcia positioned himself to David's right side and used both hands to grab David's right wrist. Officer Garcia was able to maneuver David's right arm up near his back, before losing his grip with his right hand.

**Note:** According to Officer Garcia, he attempted to grab David's right wrist, but was unsuccessful because David was sweating. He also recalled David's hand was underneath him when he attempted to grab his wrist; however, Officer Blanco's BWV captured David's hand up off the ground, out to his side, near his right shoulder.

---

<sup>37</sup> Officer Byrd's statement, Page 45, Lines 6-9.



At approximately 1824:37 hours, Officer Byrd's BWV briefly captured David pulling his right arm free and moving it underneath his torso. According to Officer Garcia, he directed David to stop resisting. Officer Garcia then decided to deliver knee strikes to extract David's right arm from underneath his body to take him into custody. While remaining on David's right side, Officer Garcia stated that he used his right knee to deliver two knee strikes to David's right side, in the upper rib area. According to Officer Garcia, he then directed David to stop resisting. After issuing that command, Officer Garcia stated that he assessed, and David was still not complying. According to Officer Garcia he used his right knee and issued two more knee strikes to David's right side, in the upper rib area, but they did not appear to have an effect on him. According to Officer Garcia, he used his right knee and issued one additional knee strike to David's right side, in the upper rib area, which caused David to stop resisting.

**Note:** BWV captured Officers Byrd and Garcia both issuing commands to David to stop fighting and to place his hands behind his back.

According to Officer Lindberg, he observed the officers struggling with David and also went over to assist.

**Note:** According to Officer Lindberg, prior to his assistance, there were four to five officers attempting to take David into custody; however, the investigation revealed that only Officers Ramos, Byrd, and Garcia had physical contact with David during this time.

According to Officer Lindberg, he placed his right knee on the back of David's right thigh, above his knee, to pin his leg to the ground. Officer Lindberg then wrapped his arms around David's legs and crossed his ankles. Officer Lindberg held this position while officers completed handcuffing.

Once David stopped resisting, Officers Byrd and Garcia were able to place David's right arm behind his back. Officer Ramos moved David's left arm behind his back and together, the officers attached the two pairs of handcuffs together to complete handcuffing.

Once David was handcuffed, Officer Lindberg requested a Hobble Restraint Device (HRD). Officer Ramos' BWV captured Officer Lindberg maintain control of David's legs, which were crossed at the ankles. Officer Ramos opened the loop of the HRD and placed it around David's ankles, with the assistance of Officer Lindberg. While Officer Lindberg maintained a grip on David's legs, Officer Ramos began to cinch the loop of the HRD with assistance from Officer Lindberg. Officer Ramos continued to hold the strap to the HRD (Investigators' Note No. 9).

**Note:** Carano stated that David was, "Hog-tied." However, a review of Officer Ramos' BWV confirmed that either Officer Ramos or Officer

Lindberg held the end of the HRD throughout the incident, and it was not attached to the handcuffs.

According to Officer Blanco, officers did not apply a HRD on David.



[...]

As the officers were applying the HRD, Sergeant West's BWV captured him directing Officer Byrd to get David up and walk him out of the area, which Officer Byrd acknowledged.

Once the HRD was applied, Officer Ramos' BWV captured Officer Byrd and Garcia roll David on to his right side; however, David rolled back onto his stomach. Officers Lindberg and Byrd rolled David into a seated position before standing him up. With the HRD applied, David was unable to walk on his own, so Officer Lindberg attempted to loosen the hobble. According to Officer Lindberg, David started flailing his legs and started to kick, so the decision was made to carry him to a position of cover. Officer Byrd held David under his left arm, Officer Ramos held David under his right arm and Officer Lindberg grabbed David's feet and they carried David to the passenger side of Officers Ramos and Vocke's police vehicle.

**Note:** According to Carano, David remained on the ground approximately five to ten minutes before officers carried him to a police vehicle. An analysis of Officer Ramos' BWV determined that from the time handcuffing was completed to the time officers started carrying David to the vehicle, approximately one minute and 17 seconds had elapsed.

Once at the vehicle, officers placed David on the ground on his left side. Officers Ramos and Lindberg each took turns holding the HRD strap, and remained with David until the Rescue Ambulance arrived. According to Officer Lindberg, while awaiting the arrival of the RA, David admitted to ingesting methamphetamine and phencyclidine (PCP).

***OIG Note No. 3: The DICVS from Sergeant Huett's police vehicle captured Officers Ramos and Lindberg place David in the left lateral***

*recumbent position, while he was handcuffed and hobbled, next to the passenger side of another police vehicle at 1826:33 hours. At 1834:10 hours, David was depicted rolling onto his stomach. He remained in that position until 1835:42 hours when Officer Garcia approached and assisted with sitting him up against the police vehicle. At 1850:52 hours, LAFD personnel approached and spoke to Officer Ramos, and the DICVS recording stopped shortly after that.*

According to Sergeant West, while managing the two arrest teams, he was mindful that officers were in front of the mobile home that Raymond had exited. Sergeant West assigned Officer Vocke to cover on the right (east facing) window of the trailer with his rifle. Sergeant West then directed other officers to cover the left side of the trailer and one officer to cover the right side, attempting to establish a “quasi-horseshoe,” configuration. According to Sergeant West, he was attempting to get the attention of additional officers to cover the left (east facing) window of the trailer; however, it wasn’t being done to his liking. According to Sergeant West, *“That’s when I unholstered and I took up a position of cover on the windows as well. Once I was able to get officers readjusted to have that window covered to my liking, then I went ahead and reholstered.”*<sup>38</sup>

At approximately 1824:52 hours, Sergeant Huett’s BWV captured him broadcast a request for additional units to respond on Figueroa Street, to establish rear containment. He also requested an air unit.

According to Sergeant West, he observed a female Hispanic, later identified as Virginia Hernandez, appear in the north (east facing) window of the trailer.<sup>39</sup> Officers Blanco and Garcia gave her directions in Spanish to exit the trailer and she complied. As she exited, Officer Blanco’s BWV captured him asking her if anyone else was inside. Officer Blanco can then be heard advising other officers that no one else was inside the trailer. Officer Garcia stated Virginia appeared very nervous, and didn’t appear to be a threat, so he holstered his pistol and guided her south, away from the trailer (Investigators’ Note No. 10).

Meanwhile, while officers were ordering Virginia out of the trailer, Sergeant West’s BWV captured him directing Officer Vocke to redeploy. He moved south with Officer Vocke, to where Officers Kisling, Chavez and Morgan were positioned. According to Sergeant West, he requested officers quickly obtain information from Virginia regarding the mobile home, so officers could make entry. His BWV also captured him coordinating with Sergeant Huett and compiling one team of officers to remain on the south side of the trailer and one search team to make entry (Investigators’ Note No. 11).

---

<sup>38</sup> Sergeant West’s statement, Page 13, Lines 11-14.

<sup>39</sup> The investigation determined that Virginia Hernandez was the mother of Raymond, and the grandmother of David.

The search team, which consisted of: Sergeant West and Officers Vocke, Blanco, and Byrd, as well as Harbor Area uniformed GED Police Officers II Tory Morgan, Serial No. 41122 and Kevin Chavez, Serial No. 41195.<sup>40</sup> The team moved north, and ultimately entered and cleared the residence without incident. No additional suspects or victims were located inside (Investigators' Note No. 12).

At approximately 18:25:55 hours, Harbor Patrol Division Watch Commander uniformed Sergeant II Bradley Hearn, Serial No. 31170, arrived at scene and made his way inside the mobile home complex. Sergeant Huett met with Sergeant Hearn and briefed him regarding the incident. As the search of the trailer was taking place, Sergeant Hearn began coordinating crime scene efforts and post Categorical Use of Force protocols.

**OIG Note No. 4:** *According to Sergeant West, "We did a protective sweep, looking only for either live individuals or either downed individuals based off of the comments of the call that we had. And we found neither."<sup>41</sup>*

After the protective sweep in space No. 40, Officer Vocke was directed by Sergeant Huett to secure the rifle inside Sergeant Huett's vehicle, Shop No. 89552, which he did.

**Note:** According to Officer Vocke, he engaged the rifle's safety after the OIS, but did not manipulate the weapon in any other way before securing it in Sergeant Huett's trunk.

At approximately 1825 hours, LAFD RA No. 38, staffed by Firefighter/Paramedic (FF/PM) Wells and Lopez received an alarm to respond to the location. At approximately 1849 hours, they arrived and rendered aid to Raymond, who was pronounced dead at scene at approximately 1855 hours.

**OIG Note No. 5:** *At approximately 1846:38 hours, Sergeant West broadcast on Harbor frequency that officers were "Code Four" on the inside of the residence. LAFD personnel were then informed by CD that the scene was clear for them to enter.*

At approximately 1900 hours, the Department Operations Center (DOC) was notified of the OIS and the details of the subsequent notifications are attached (Addendum No. 1)(Investigators' Note No. 13).

At approximately 2024 hours, Force Investigation Division (FID), Detective III Robert Solorza, Serial No. 27733, was the first representative from FID to arrive on scene.

---

<sup>40</sup> Officers Morgan and Chavez, working unit 5G65 responded to the help call, and arrived at approximately 1823:58 hours, after the OIS. The investigation determined that, other than assisting with the search of the residence, they were not involved in the incident. Therefore, they were not interviewed.

<sup>41</sup> Sergeant West, Page 44, Lines 13-16.

On September 24, 2019, FID, Criminal Apprehension Team (CAT) Detective II Robert McCarty, Serial No. 31125, authored a warrant to search the premises of 1000 Figueroa Street, space No. 40. The warrant was signed by the Honorable Judge Christopher Estes, Central Criminal Magistrate Unit (Addendum No. 2).

Force Investigation Division Detective II Joseph Vasquez, Serial No. 35412, reviewed the documents and circumstances surrounding the separation, monitoring and admonitions not to discuss the incident prior to being interviewed by FID investigators. The investigation revealed that there were deviations from standard protocols (Investigators' Note No. 14 and Addendum No. 3).

### **Scene Description**

The incident took place on the property of Merle's Manor II, a mobile home park, located at 1000 South Figueroa Street, in the City of Wilmington. There was only one vehicle entrance to the park, located off Figueroa Street. The OIS occurred on Yellowstone Drive, on the street, in front the mobile home in space No. 40. At the time of the incident, there were 87 residential mobile homes located on the property.

The incident occurred during daylight at approximately 1823 hours. The environmental conditions were dry and sunny with clear skies.

### **Canvass for Witnesses**

On September 23, 2019, Harbor Area and FID personnel conducted a canvass of the area for witnesses to the incident.

On February 19, 2020, FID personnel conducted an additional canvass of the area. Unless otherwise noted, the statements of all witnesses were recorded and transcribed and are contained in this report.

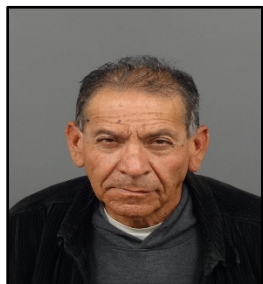
There were one civilian witnesses who only heard shots. The number of shots heard by the witnesses ranged from five to 20. Copies of their statement forms are contained in the FID casebook.<sup>42</sup>

***OIG Note No. 6: The OIG clarified with FID that there was only one Heard Only Witness Form completed. The number of shots reported as being heard by witnesses, which ranged from five to 20, is inclusive of all the civilian witnesses who were interviewed during the investigation.***

---

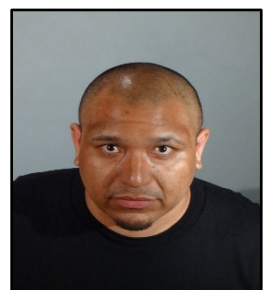
<sup>42</sup> The interviews of the "heard only" witnesses were documented on Heard Only Witness Forms for Civilians. These interviews were not recorded or transcribed.

## Suspect Information



**Raymond Hernandez** was a male Hispanic with black/gray hair and brown eyes. At the time of the incident, he was five feet and eight inches tall, with a weight of approximately 152 pounds. He was 63 years of age, with a date of birth of June 14, 1956. Raymond was identified by Criminal Information Index (CII) No. A09186579.

Raymond had an extensive criminal history, including one prior felony conviction for California Penal Code Section 12020(A)(1) - Possession of a Dangerous Weapon (sawed-off shotgun) in 2008. At the time of the incident, Raymond was on Summary Probation for a weapons violation (knife), stemming from a 2018 arrest (Addendum No. 4).



**David Hernandez** was a male Hispanic with black hair and brown eyes. At the time of the incident, he was five feet nine inches tall, with a weight of approximately 260 pounds. He was 32 years of age, with a date of birth of June 10, 1987. David was identified by CII No. A25161146.

David's criminal history included felony convictions for 29800(a)(1) – Possession of a firearm, 2800.2(A) – Evading a Peace Officer, and 12301(a)(1) – Carrying a loaded firearm. At the time of the incident, David was on Summary Probation for possession of methamphetamine (Addendum No. 5).

According to Police Officer II Melissa Lieberman, Serial No. 31830, Mental Evaluation Unit (MEU), neither Raymond nor David had any prior MEU contacts.

In relation to this incident, Los Angeles Police Department (LAPD) Investigative Reports were completed for the crime of Assault with a Deadly Weapon on a Peace Officer against Officers Vocke, Byrd and Millan. All three reports named Raymond as the suspect and were dispositioned with a case status of Cleared Other (Addendum No. 6).

An additional Investigative Report was completed for the crime of Assault with a Deadly Weapon/Battery against Victim Gabriel Carano, naming both Raymond and David as suspects.

On October 9, 2019, Detective McCarty presented the case against David Hernandez to the Los Angeles County City Attorney's Office for filing consideration. Deputy City Attorney Susan Skelding Couig filed one count of section 314(1) of the California Penal Code (PC) – Indecent Exposure, one count of 647(A) PC– Lewd Conduct, three counts of 69 PC – Resisting an Executive Officer, and one count of 242 PC - Battery. The report was dispositioned with a case status of Cleared by Arrest (Addendum No. 7).

On November 4, 2019, David failed to appear for his arraignment, and a bench warrant was issued for his arrest.

## **Injuries**

At approximately 1825 hours, LAFD RA No. 38, staffed by Firefighter/Paramedic (FF/PM) Wells and Lopez received an alarm to respond to the location. At approximately 1849 hours, they arrived and rendered aid to Raymond, who was pronounced dead at scene at approximately 1855 hours.

**Note:** At approximately 1828:39 hours, Sergeant Huett's BWV captured him advising CD that it was not yet clear for LAFD to enter the scene. At approximately 1846:48 hours, after the search of the residence was complete, Sergeant Huett broadcast it was clear for LAFD to enter.

At approximately 1852 hours, LAFD RA No. 85, staffed by FF/PM Hernandez and Rankell, received an alarm to respond to the location to treat David. They arrived at approximately 1858 hours, rendered medical aid, and transported David by RA to Kaiser South Bay Hospital, at approximately 1923 hours. David received medical treatment for abrasions to his forehead and he was placed on a 72-hour psychiatric hold.

**Note:** David refused to sign an authorization to release his medical information; therefore, no further medical information was available.

## **Evidence**

On September 24, 2019, at approximately 0050 hours, Forensic Science Division (FSD) Firearms Analysis Unit (FAU), Criminalists II Annette Woiwode, Serial No. N4427, Jane Kwon, Serial No. N4963, and Criminalist I Chelsea Hunter, Serial No. N6279, responded to the scene. The FAU personnel conducted an examination of the OIS scene for evidence including but not limited to ballistic impacts, trajectories, projectiles and forensic evidence.

As a result of their examination, multiple items of evidence were recovered and booked under DR No. 1905-15964. Included in those items were a pistol, gun magazine, discharged cartridge casings, fired bullets, a bullet jacket fragment, a comb and bicycle pump.

Pursuant to the search warrant, the premises of 1000 Figueroa Street, Unit No. 40, was searched by FID investigators. Additional evidence was recovered, including multiple cellular telephones, 9-millimeter ammunition, a discharged cartridge case, gun and ammunition boxes as well as miscellaneous paperwork.

There was a total of 61 items of evidence booked in conjunction with this incident (Addenda Nos. 8 and 9).

## **Coroner's Investigations**

### **Coroner's Response**

On September 24, 2019, at approximately 0020 hours, the Los Angeles County Department of Medical Examiner-Coroner's Office was notified of Raymond's death.

At approximately 0210 hours, Coroner Investigator Kristy McCracken, Serial No. 491917, arrived at scene and conducted an investigation. Prior to transporting Raymond's body to the Los Angeles County Forensic Science Center (LACFSC), Investigator McCracken collected a gunshot residue (GSR) kit, as well as fingernail and hair kits from Raymond. She also located and removed a cellular telephone from Raymond's front left pant pocket (Item No. 1) and released it to FID investigators pursuant to the search warrant.

At approximately 0403 hours, LACFSC Attendant John Green transported Raymond's remains to LACFSC (Addendum No. 10).

### **Autopsy**

On September 26, 2019, at approximately 0900 hours, Los Angeles County Department of Medical Examiner-Coroner, Deputy Medical Examiner Doctor Vadims Poukens, performed a post-mortem examination of Raymond's remains. Force Investigation Division, Detectives II Brad Michel, Serial No. 36782, and Jose Robledo, Serial No. 34492, along with Personnel and Training Bureau (PTB) Sergeant II Salvatore De Bella, Serial No. 37572, In Service Training Division (ISTD) Police Officer III Mark Dain, Serial No. 35634, and Los Angeles County District Attorney's Office, Investigator Damion Wells, were present for the examination.

Doctor Poukens ascribed Raymond's death was caused by multiple gunshot wounds. During the examination, Doctor Poukens obtained specimens from Raymond for toxicological analysis.

Doctor Poukens determined that Raymond sustained seven gunshot wounds. The wounds are numbered from front to back, but do not constitute the order in which they were sustained.

**Gunshot Wound No. 1** entered the right side of Raymond's chest. The direction of the wound was front to back and right to left. There was no exit wound. There was no soot identified; however, there was pseudo stippling present. A few small projectile fragments were recovered from Raymond's chest. Doctor Poukens concluded that this wound was fatal.

**Gunshot Wound No. 2** was a graze wound to Raymond's right flank/hip. There was no soot or stippling present. The direction of the wound is unknown.



**Gunshot Wound No. 3** was a through and through gunshot wound that entered Raymond's right hip and exited his right thigh. The direction of the wound was right to left and downward. There was no soot or stippling present. There was no projectile recovered. Doctor Poukens concluded that this wound was not fatal.

**Gunshot Wound No. 4** was a graze wound to Raymond's left wrist. The direction of the wound was unknown. There was no soot or stippling present.

**Gunshot Wound No. 5** was a graze wound to Raymond's left wrist. The direction of the wound was unknown. There was no soot or stippling present.

**Gunshot Wound No. 6** was a through and through gunshot wound that entered the front of Raymond's left hand, at the base of his pinky finger, and exited the back of his left hand. The direction of the wound was front to back. There was no soot or stippling present, and no projectile was recovered. Doctor Poukens concluded that this wound was not fatal.

**Gunshot Wound No. 7** entered the right side of Raymond's back. The direction of the wound was back to front and right to left. There was no exit wound. There was no soot or stippling present. A few small projectile fragments were recovered from Raymond's chest. Doctor Poukens concluded that this wound was fatal.

Doctor Poukens opined that the two fatal gunshot wounds were inflicted by high velocity projectiles. During the examination, small abrasions to Raymond's face were also noted. (Addendum No. 11).

**Note:** On Page 9 of the Autopsy Report, Doctor Poukens erroneously identified Detective Michel as Detective Mitchel and Detective Robledo as Detective Robiyledo.

## **Toxicology**

On October 18, 2019, a Laboratory Analysis Summary Report was reviewed and approved by Los Angeles County, Department of Medical Examiner-Coroner Supervising Criminalist I Sarah Buxton de Quintana. The analysis results documented that Raymond tested negative for basic drugs and alcohol (Addendum No. 12).

## **Gunshot Residue**

On April 14, 2020, a request was sent to the Los Angeles County Department of Medical Examiner-Coroner's Office regarding the Gunshot Residue (GSR) kit obtained by Coroner Investigator McCracken. On April 21, 2019, Senior Criminalist Melvina Gin performed an analysis of the GSR kit and determined that Raymond had particles on his face and hands which indicated he may have discharged a firearm, been in the vicinity of the discharge of a firearm, or touched a surface with GSR on it (Addendum No. 13).

## Clothing Analysis

There was no clothing analysis requested for this investigation.

## Weapons

**Raymond** was armed with a 9mm Luger, Polymer 80 pistol model PF940SC. The pistol did not contain a serial number. While conducting the render safe, Criminalist Woiwode noted the pistol was lying on its left side with the muzzle pointed southeast and the magazine fully inserted. Criminalist Woiwode also noted that the pistol was in slide lock, with the action open and slide locked in a rearward position. The pistol was visually examined and unloaded at the scene. There was no ammunition or ammunition components removed from the pistol or the magazine (Addendum No. 14).

On October 18, 2019, Latent Print Specialist Maria Brion, Serial No. G8280, finalized a report documenting that no latent prints were developed from Raymond's pistol and magazine (Addendum No. 15).

On October 22, 2019, Criminalist Woiwode finalized a report documenting the swabbing of Raymond's pistol and magazine for DNA. DNA analysis of the swab was not requested because it did not provide any additional investigative insight. The swab was retained for future testing if later requested (Addendum No. 16).

On November 8, 2019, Criminalist Woiwode finalized a report documenting the testing of Raymond's pistol. Criminalist Woiwode test fired Raymond's pistol and found it to be functional. Additionally, representative images were entered into the National Integrated Ballistic Information Network (NIBIN) database (Addendum No. 17).

**Officer Millan** was armed with a Department authorized Smith & Wesson, 9mm Luger, model M&P, semi-automatic service pistol, with an attached Streamlight tactical light. The capacity of this weapon, when fully loaded, is 17 cartridges in the magazine and one cartridge in the chamber, for a total of 18 cartridges. According to Officer Millan, at the time of the OIS, his pistol was loaded with 17 cartridges in the magazine and one cartridge in the chamber, for a total of 18 cartridges.

On September 24, 2019, FID Sergeant II Richard Brunson, Serial No. 32828, conducted a post-incident inspection of Officer Millan's pistol and magazines. An inspection of the pistol determined that firing chamber contained one round of Department approved Speer Gold Dot G2, 9mm Luger, 147 grain ammunition. The magazine contained eight Department approved Speer Gold Dot G2, 9mm Luger, 147 grain, cartridges. Sergeant Brunson conducted an inspection of the two additional magazines from Officer Millan's Sam Browne equipment belt. Sergeant Brunson determined that both magazines contained 17 Department approved Speer Gold Dot G2, 9mm Luger, 147 grain, cartridges. The inspection indicated that Officer Millan discharged nine rounds, consistent with the findings of the investigation.

On October 22, 2019, FSD / FAU Criminalist Jacob Seror, Serial No. N4571, finalized a report documenting the test fire results from Officer Millan's service pistol, which was found to be functional and within Department specifications (Addendum No. 18).

On February 12, 2020, Detective Vasquez conducted a query of Officer Millan's service pistol through the Department Firearms Inventory Tracking System (FITS). Officer Millan's pistol was registered with the Department Armory since August 11, 2015.

**Officer Byrd** was armed with a Department authorized Glock 17, 9mm semi-automatic pistol. The capacity of this weapon, when fully loaded, is 17 cartridges in the magazine and one cartridge in the chamber, for a total of 18 cartridges. According to Officer Byrd, at the time of the OIS, his pistol was loaded with 17 cartridges in the magazine and one cartridge in the chamber, for a total of 18 cartridges.

On September 24, 2019, Sergeant Brunson conducted a post-incident inspection of Officer Byrd's pistol and magazines. The inspection determined that the firing chamber contained one Department approved Speer Gold Dot G2, 9mm Luger, 147 grain, cartridge. The magazine eight Department approved Speer Gold Dot G2, 9mm Luger, 147 grain, cartridges and one Winchester Ranger, 9mm, 147 grain SXT cartridge. Sergeant Brunson conducted an inspection of two additional magazines from Officer Byrd's Sam Browne equipment belt. Sergeant Brunson determined that one magazine contained 17 Department approved Speer Gold Dot G2, 9mm Luger, 147 grain, cartridges. The other magazine contained 16 Department approved Speer Gold Dot G2, 9mm Luger, 147 grain, cartridges and one Winchester Ranger, 9mm, 147 grain SXT cartridge. The inspection indicated that Officer Byrd discharged eight rounds, consistent with the findings of the investigation (Investigators' Note No. 15).

On October 28, 2019, FSD / FAU Criminalist III Brian Reinartz, Serial No. N5624, finalized a report documenting the test fire results from Officer Byrd's service pistol, which was found to be functional and within Department specifications (Addendum No. 19).

On January 23, 2020, Detective Vasquez conducted a query of Officer Byrd's service pistol through the Department Firearms Inventory Tracking System (FITS). Officer Byrd's pistol was registered with the Department Armory since May 29, 2013.

**Officer Vocke** was armed with a Department authorized Colt, M-16A1, 5.56x45mm caliber rifle. The capacity of this weapon, when fully loaded per Department policy, is 28 cartridges in the magazine and no cartridge in the chamber for a total of 28 cartridges.

On September 24, 2019, Sergeant Brunson conducted a post-incident inspection of Officer Vocke's police rifle, which was recovered from Shop No. 89552. An inspection of Officer Vocke's rifle determined one Department approved Winchester 5.56x45mm, 55 grain, Full Metal Jacket cartridge in the chamber and 22 Department approved Winchester 5.56x45mm, 55 grain, Full Metal Jacket cartridges in the magazine. The

inspection indicated that Officer Vocke discharged five rounds, consistent with the findings of the investigation.

On October 22, 2019, Criminalist Seror finalized a report documenting the test fire results from Officer Vocke's police rifle, which was found to be functional and within Department specifications (Addendum No. 20).

On January 23, 2020, Detective Vasquez conducted a query of Officer Vocke's police rifle through the Department Firearms Inventory Tracking System (FITS). Officer Vocke's rifle was registered with the Department Armory since January 4, 2010.

**Note:** There was a total of 5 discharged rifle cartridge casings recovered during the crime scene investigation. This number is consistent with the magazine count from Officer Vocke's rifle.

### **Firearms Analysis**

On September 24, 2019, Criminalist Woiwode responded to 1000 S. Figueroa Street to assist with impact assessment and conduct a bullet path analysis at scene (Addendum No. 21).

Criminalist Woiwode identified a total of 14 bullet pathways which were labeled A thru N.

Three pathways, labeled A, B, and C, on an artificial rock and lamp post, were consistent with south to north and west to east directionality.

The directionality of pathway D, on a plant, was not able to be determined due to the nature of the surface impacted.

Pathway E on a car port post of the trailer in space No. 45, was consistent with a south to north directionality.

Pathway F was observed on the south exterior wall of the trailer in space No. 37, and was consistent with south to north and west to east directionality.

Pathway G was observed on the south exterior wall of the trailer in space No. 37, and was consistent with a south to north directionality.

Pathway H was observed on the rear of a Nissan van, California license No. 59983T2 that was parked adjacent to the trailer in space No. 38. It was consistent with south to north and east to west directionality.

Pathway I was observed on the east exterior wall of the trailer in space No. 38, and was consistent with south to north and east to west directionality.

Pathways J and K were observed on the south exterior wall of the trailer in space No. 38. They were consistent with south to north directionality.

Pathways L and M were observed on the south exterior wall of the trailer in space No. 38. They were consistent with south to north and east to west directionality.

Pathway N was observed on the window awning of the south exterior wall of the trailer in space No. 38, and was consistent with south to north and east to west directionality.

In a report finalized on January 3, 2020, FSD/FAU Firearms Examiner Srinivasan Rathinam, Serial No. N3851, documented results from a type and caliber analysis examination. Analyst Rathinam compared bullets that were recovered during the crime scene investigation (items 33 through 36) and items recovered during the post-mortem examination (item 57) with test fires from Officers Millan and Byrd's pistol and Officer Vocke's rifle.

Analyst Rathinam determined the following:

- The fired bullet (item 33) recovered inside the kitchen of the trailer in space No. 37, was consistent with the test fire from Officer Byrd's pistol.
- The fired bullet (item 34) that was recovered from the driveway east of the trailer in space No. 41, along with the fired bullet (item 35) that was recovered from the living room inside the trailer of space No. 38, were consistent with the test fire from Officer Millan's pistol.
- A fired bullet fragment (item 57A) that was recovered during the post-mortem examination of Raymond was consistent with the test fire from Officer Vocke's rifle.
- The bullet jacket fragment (item 36) recovered from the driveway of the trailer in space No. 41, and fired bullet fragments (items 57B and 57C), recovered during the post-mortem examination of Raymond lacked sufficient information for type and caliber determination (Addendum No. 22).

## **Visual Documentation**

### **Digital In-Car Video System (DICVS)**

The DICVS of Officers Millan and Kisling was activated during the incident and reviewed by investigators. The video captured the officers' Code Three response, the OIS, and the UOF with David.

The DICVS of Officers Byrd and Blanco was activated during the incident and reviewed by investigators. The video captured their Code Three response and audio through the OIS; however, the video quality is poor and out of focus (Investigators' Note No. 16).

**The DICVS of Sergeant Huett was activated and reviewed. It captured his Code Three response and the OIS.**

**Officers Ramos and Vocke and Sergeant Huett** did not respond to the call Code Three; therefore, their DICVS was not activated.

***OIG Note No. 7:** The OIG noted that the previous sentence appeared to reference Sergeant Huett in place of Sergeant West.*

### **Body Worn Video**

There were eight officers/sergeants who were present during the OIS, and all had their BWVs activated during the incident. Those videos were reviewed in their entirety by FID investigators. The following is a synopsis of the videos that had significant evidentiary value:

The BWVs for Officers Millan, Kisling, Blanco, Byrd, Vocke, Ramos, and Sergeants West and Huett all captured portions of the interactions with David and Raymond leading up to the OIS, as well as portions of the Non-Categorical Use of Force (NCUOF) with David. While all videos were activated during the OIS, some of the BWVs were partially obstructed by objects during the actual shooting.

Multiple units responded to the help call and arrived after the OIS. Those BWVs were reviewed by FID investigators. It was determined the BWVs of these responding units did not have significant evidentiary value, with the exception of the two officers listed below.

The BWVs of Officers Chavez and Morgan, who arrived after the OIS, captured a portion of the NCUOF with David and the subsequent search of the trailer in space No. 40.

### **Social Media**

Personnel assigned to FID Cyber Unit monitored social media sites from the date of the incident until the submission of this investigation. No additional evidence, information or witnesses were identified.

### **Other Department Video**

There was no additional Department video.

### **Outside Video / Photographs**

On September 23, 2019, at approximately 2221 hours, Sergeant Brunson and FID Detective II Ubaldo Zesati, Serial No. 30078, interviewed Witness-Francisco Martinez Madrigal, who advised investigators that he took several pictures with his cell phone. After the interview, Madrigal sent the pictures via email to Detective Zesati. There were a total of 12 pictures taken, three of the photographs appear to be before the OIS. The

nine remaining photographs appear to be after OIS. Detective Zesati booked the photographs at TID under Digital Control (D) No. 729462. Copies of the photographs were retained in the FID case book.

On March 5, 2020, at 1650 hours, Detectives Vasquez and Michel interviewed Witness-Manuel Castro who advised investigators that he took a short 18 second video with his cell phone. The video was emailed to Detective Vasquez, who made two copies. Detective Vasquez booked one copy at TID under D No. 729457 and the second copy was retained in the FID case book.

## **Photographs**

On September 23, 2019, Technical Investigation Division (TID) Photographer III Francisco Govea, Serial No. N5606, photographed the crime scene and associated evidence under D No. 0770520.

## **Notifications**

On September 23, 2019 at approximately 1900 hours, the Department Operations Center (DOC) was notified of the OIS and the details of the subsequent notifications are attached (Addendum No. 1).

## **Personnel at Scene**

Detective III Robert Solorza, Serial No. 27733, was the first FID representative to arrive at scene at approximately 2024 hours. Crime scene logs documenting additional personnel at the location are contained within the FID case file and are available for review.

## **Communications**

A copy of Communications Division (CD) printout and master recording for Incident Nos. 190923004852 and 190923004862, including Harbor Division frequency, have been stored at FID.

## **Justice System Integrity Division**

This case met the criteria for presentation to the County of Los Angeles District Attorney Office, Justice System Integrity Division, and will be presented shortly after completion of this administrative report.

## **Investigators' Notes**

1. According to Carano and Avalos, their 10-year old daughter and Avalos' parents were in the trailer with them at the time of the incident. However, Avalos declined to have their daughter interviewed. FID investigators left several phone messages for

Avalos' parents, Pedro and Yolanda Avalos, in an attempt to interview them. However, on March 4, 2020, Avalos contacted the I/O and advised she did not want either of her parents interviewed regarding the OIS due to the stress the incident caused and their current medical conditions. Therefore, they were not interviewed.

2. The investigation revealed the following issues regarding equipment:
  - Officer Byrd was not in possession of a HRD at the time of the incident
  - Officer Blanco did not have his PR-24 baton or ASP on his person at the time of the incident. He indicated his PR-24 baton was in his vehicle.
  - Officer Vocke was not in possession of a HRD at the time of the incident.
3. Despite conducting two separate canvasses for witnesses, FID investigators were unable to locate or identify the male and female seen in Officer Millan's DICVS and BWV at approximately 1818:54 hours.

Similarly, Officers Millan and Kisling's DICVS also captured Witness Martinez standing with another male, who can be seen on video when they arrived, wearing a white T-shirt. During his interview, Martinez indicated he had been standing outside with a friend named "Alfredo," however, he did not have an address for him. FID investigators were unable to locate or further identify Alfredo.

4. While he was still responding to the call, Officer Byrd unholstered his pistol and held it in his right hand while operating the vehicle. At approximately 1820:38 hours, Officer Byrd's BWV captured him holding his pistol in his right hand, by his right side, in what appears to be a close contact position, with the muzzle facing the front of the vehicle. It appeared that when Officer Byrd maneuvers the steering wheel with his left hand to make a right turn, he may have covered himself with his pistol.
5. When Officer Blanco initially drew his pistol at the rear bumper of Officer Millan and Kisling's vehicle, his BWV captured him holding it in a one handed low ready position. Shortly thereafter, Officer Blanco can be seen raising the muzzle higher, pointing it north toward Raymond. As he did so, Officer Millan can be seen in the foreground, in the open driver's door of the vehicle, in between Officer Blanco and Raymond.
6. At approximately 1824:06 hours, Millan's BWV captured him use profanity when he stated, "*Fuck it*" while attempting to don his gloves.
7. At approximately 1823:44 hours, as Officer Vocke moves forward with the arrest team, his BWV captured his finger on the trigger of his rifle. According to Officer Vocke he did not intentionally place his finger on the trigger.
8. At approximately 1822:46 hours, while Officer Blanco was activating the sight on the 40-mm less lethal launcher, his BWV captured his finger on the trigger. Additionally, at approximately 1823:44 hours, his finger can be seen on the trigger as he walked north with the arrest team toward Raymond.



9. At approximately 1824:35 hours, while officers were struggling with David, Officers Byrd's BWV captured Officer Garcia use profanity when he stated, "*Stop fighting fucker.*" Additionally at approximately 1824:53 hours, it captured Officer Garcia state, "*Stop fucking fighting.*"
10. After the OIS, at approximately 1827:48 hours, Metropolitan Division uniformed Sergeant II Michael Knoke, Serial No. 36679, arrived and briefly spoke with Sergeant Huett. Sergeant Knoke then obtained a large blue trash dumpster, north of mobile home space No. 40. He pushed the dumpster south and placed it in the middle of Yellowstone Drive, in front of mobile home space No. 40, to afford Officers Millan and Kisling cover. This was the extent of Sergeant Knoke's involvement in the incident; therefore, he was not interviewed.
11. At approximately 1828:18 hours, Sergeant West's BWV captured him use profanity when he stated, "*Nobody fuck with that gun.*" According to Sergeant West, he had been part of a previous Categorical Use of Force where another supervisor handed him a suspect's weapon. Sergeant West directed the comment at his officers to emphasize the importance of not moving the gun.
12. As Officer Vocke was assisting with the search of the residence, his BWV shut off. According to Officer Vocke, he did not intentionally deactivate or shut down his BWV. He believes the sling of the rifle may have caught on the power switch, turning the camera off.
13. The OIS occurred at approximately 1823 hours. The DOC log indicated that the notification of the OIS by the Harbor Watch Commander was made at 1900 hours.
14. The following discrepancies were noted regarding the documentation of the separation and monitoring of officers:
  - The last entry of Lieutenant Loomis' Watch Commander's log regarding the separation and monitoring of employees was at 2020 hours. There were no further entries indicating when officers were transported for interviews or when their monitoring concluded.

**The following discrepancies were noted between the Watch Commander's log and Sergeant Manlove's log:**

- The Watch Commander's log indicated Sergeant Manlove transported Officers Blanco and Ramos to Harbor Station at 1915 hours; however Sergeant Manlove's log documented this time as 1930 hours.
- The Watch Commander's log indicated that Sergeant Manlove monitored Officers Kisling, Blanco, and Ramos at 1920 hours; however Sergeant Manlove's log indicated he did not arrive at Harbor station until 1945 hours.

**The following discrepancies were noted between the Watch Commander's log and Sergeant Davidson's log:**

- Sergeant Davidson's log indicated she monitored an involved officer at 1900 hours until relieved by Sergeant Cardona at 2355 hours. Her log did not indicate who she monitored. The Watch Commander's log indicated Sergeant Davidson monitored Officer Millan at 1910 hours. Additionally, the Watch Commander log indicated she monitored Officers Garcia and Lindberg at 2010 hours, however this information was not captured on Sergeant Davidson's log.

**The following discrepancies were noted between the Watch Commander's log and Sergeant Talmage's log:**

- Sergeant Talmage's log indicated he transported two involved officers and arrived at Harbor Station at 1906 hours; however his log did not indicate who he monitored. Additionally, the Watch Commander's log indicated Sergeant Talmage arrived at Harbor station at 1910 hours.
- Sergeant Talmage's log indicated he was relieved by Detective Knight at 2018 hours. The Watch Commander's log documented this time as 2020 hours.

**The following discrepancies were noted between the Watch Commander's log and Sergeant Cardona's log:**

- Sergeant Cardona's log indicated he monitored various employees between the hours of 2355 and 0515. He identified employees by their unit numbers, not by names. The Watch Commander's log did not have any entries regarding the monitoring of employees by Sergeant Cardona.

15. Officer Byrd had two rounds of previously authorized Winchester Ranger, 9mm, 147 grain SXT cartridge loaded in with the currently authorized Speer ammunition. According to Officer Byrd, the 50 rounds of ammunition provided by the Department is not enough to load all his magazines to full capacity. According to Officer Byrd, he attempted to privately purchase additional Department approved ammunition at the Los Angeles Police Revolver and Athletic Club (LAPRAAC) store located at the Elysian Park Academy; however, they would not sell him ammunition because he did not possess a "Real" California Driver's License. Following the OIS, Officer Byrd was able to obtain additional Department approved ammunition.
16. The DIVCS from Officers Byrd and Blanco was blurry and out of focus. However, investigators reviewed their test video from the beginning of their shift, and the video appeared to be working properly. FID investigators conducted an audit of the DICVS for Shop No. 88833, from September 24, 2019 through October 4, 2019. All videos, with the exception of test videos, until October 3, 2019 appeared to be blurry. However, the videos captured on October 4, 2019 were once again back in focus and it appeared the DICVS was once again working properly.

On May 18, 2020, Force Investigation Group, Commanding Officer, Commander Timothy Nordquist, Serial No. 35492, informed the Director, Office of Operations, Assistant Chief Robert N. Arcos, of the above issues.

[This space intentionally left blank.]

## **CHIEF OF POLICE REPORT<sup>43</sup>**

### **Chief of Police Findings**

**Tactics** – Administrative Disapproval, Sergeants West and Huett along with Officers Vocke, Byrd and Blanco. Tactical Debrief, Officers Ramos, Millan, Kisling, Garcia, and Lindberg.

**Drawing/Exhibiting** – Out of Policy, Administrative Disapproval, Officer Byrd (First Drawing/Exhibiting) and Sergeant Huett. In Policy, No Further Action, Sergeant West, along with Officers Vocke, Ramos, Millan, Kisling, Byrd (Second Drawing/Exhibiting), Blanco, Garcia, and Lindberg.

**Non-Lethal Use of Force** – In Policy, No Further Action, Officers Byrd, Ramos, Garcia, and Lindberg.

**Lethal Use of Force** – In Policy, No Further Action, Officers Vocke, Millan, and Byrd.

### **Chief of Police Analysis**

#### **Detention**

Uniformed officers received a radio call of a “shots fired” at 1000 Figueroa Street. Upon arrival, the officers were met by David who was naked and standing in the middle of the street in front of his residence. The officers gave David commands to place himself in a prone position. David did so, and the officers waited for additional units. After additional units responded, the officers briefed the additional personnel on the incident. While doing so, Raymond exited his residence with his right arm concealed behind his back and walked towards David. Raymond stood behind David and produced a handgun from behind his back. Raymond pointed the handgun at the officers resulting in an OIS. The officers’ actions were appropriate and within Department policies and procedures.

#### **Tactics**

Department policy relative to a Tactical Debrief is: *“The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance.”*

Department policy relative to Administrative Disapproval is: *“A finding, supported by a preponderance of the evidence that the tactics employed during a CUOF incident unjustifiably and substantially deviated from approved Department tactical training” (Los Angeles Police Department Manual, Volume 3, Section 792.05).*

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires

---

<sup>43</sup> The information provided in this section summarizes the analysis and findings set forth in the Chief of Police’s report for this case.

that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

## **Tactical De-Escalation**

- *Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.*

### *Tactical De-Escalation Techniques*

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)*

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

**Planning** – Officers Millan and Kisling had discussed tactics and designated contact and cover roles prior to arriving at the radio call location. While enroute, they also discussed the comments of the radio call with each other and requested additional information.

Officers Vocke and Ramos, while driving to the radio call location, discussed cover and contact roles. Officers Blanco and Byrd discussed their roles of contact and cover as well as determining that the officer that is not in contact with an individual would become the cover officer.

According to Sergeant West, he arrived and began formulating a plan of action and met with Sergeant Huett to gather information. Sergeant West called for a less-lethal device to be deployed.<sup>44</sup>

According to the FID investigation, Sergeant West coordinated with Sergeant Huett by compiling one team of officers to remain on the south side of the trailer and one search team to make entry. Sergeant West led the search team, which included some of the officers involved in the OIS, into the mobile home to clear it for possible downed individuals, rather than utilize or request uninvolved officers to conduct the warrantless search. Neither Sergeant West nor Sergeant Huett addressed

---

<sup>44</sup> The UOFRB noted that Sergeant West's statements and recollections were not supported in the investigation and by BWV. Sergeant West did not formulate a plan, nor did he communicate this information to Sergeant Huett.

Raymond's location or his removal from in front of the mobile home at Space No. 40. Sergeant West ensured a RA had already been requested.

Officers Garcia and Lindberg discussed donning their ballistic vests and a raid jackets over their plain-clothes attire, so they would be properly identified as police officers and not be confused as civilians. Officers Garcia and Lindberg also discussed the topic of contact and cover with Officer Garcia being the contact officer and Officer Lindberg being the cover officer.

**Assessment** – Upon his arrival, Officer Byrd assessed the scene and observed only one of the described individuals (David) from the radio call. Officer Byrd asked Officer Millan if they had located the second individual (Raymond) described in the radio call as shooting a handgun into the air.

Officer Vocke assessed after firing his final round and observed Raymond was down and no longer pointing the handgun at the officers so Officer Vocke ceased firing.

Officer Byrd fired his fourth round then stopped and assessed. Officer Byrd noted that Raymond no longer had a handgun in his hand and stopped firing.

Officer Millan, after firing all five rounds, assessed and observed the threat was no longer there since Raymond's handgun was down.<sup>45</sup>

After the OIS occurred, Sergeant West assessed the situation and advised the officers to be mindful of David, who was still downrange. Sergeant West observed Raymond's handgun was about one to one and a half feet away from Raymond's hand and Sergeant West assessed the distance from David to Raymond's handgun on the ground. After his assessment, Sergeant West moved forward with his contact team to take David into custody.

Sergeant Huett arrived and observed Officer Vocke gathering information from a nearby witness. Sergeant Huett directed Officer Vocke to obtain more information from the witness to ascertain if the witness had observed a handgun. Unaware Officer Blanco had already deployed a 40mm LLL, Sergeant Huett requested a beanbag shotgun. While Sergeant West made his approach with the contact teams, Sergeant Huett observed Officer Kisling position herself farther east along the mobile home. Sergeant Huett assessed that Officer Kisling was too far back and had her redeploy west towards the corner of the mobile home to get a better vantage point on the target location.

**Time** – Officers Millan and Kisling utilized time to their advantage by not attempting to approach David prematurely. Officer Millan attempted to communicate with David to de-escalate the situation, which provided the officers time until additional units arrived.

---

<sup>45</sup> The OIG noted that, according to the FID investigation, Officer Byrd fired a total of eight rounds and Officer Millan fired a total of nine rounds during this incident.

Responding Officers Byrd, Blanco, Vocke, Ramos, and Sergeants West and Huett all utilized time to formulate plans and make their approach after the OIS occurred.

Raymond unexpectedly exited the residence and produced a handgun, which reduced the amount of time the officers had to continue to de-escalate the incident.

**Redeployment and/or Containment** – Realizing he was not in a beneficial position of cover, Officer Millan immediately made his way toward the back of a residential mobile home with Officer Kisling while communicating with David.<sup>46</sup> Officer Millan was positioned offset and at an angle from the suspect, facing northwest.

Upon his arrival, Sergeant West believed it was a tactical concern to have officers exposed while standing in front of the mobile home where Raymond had just exited. Sergeant West positioned Officer Vocke to a position of advantage by covering the right window of the mobile home, which faced out towards the contact team.

Aware of his foreground consisting of Officers Vocke, Byrd, and Ramos, Officer Blanco began to redeploy from the left side of the police vehicle to the right, passenger side.

Sergeant Huett assessed officers' positions and noted that Officer Kisling was too far to the east and had her redeploy west towards the corner of the mobile home for a better vantage point on the target location.

**Lines of Communication** – Officer Millan gave numerous commands to David and Raymond throughout the incident to de-escalate the situation. Officer Millan directed David to get on the ground and onto his knees. Aware of additional units responding to the radio call, Officer Millan took hold of his police radio and broadcast pertinent information to guide responding officers to their location. Officer Millan broadcast that David was on the ground, was not armed, and that they had him at gunpoint. Officer Millan communicated to Officer Kisling and told her to stay at the mobile home and to watch David while he walked back to their police vehicle to brief Officers Vocke and Ramos. Officer Millan continued to wait behind his opened passenger door's ballistic panel until the third additional unit arrived to brief them.

Officer Blanco attempted to communicate with Raymond and gave him commands in both English and Spanish to get him to comply. Officer Byrd also gave Raymond commands to show his hands.

Sergeant Huett utilized his radio for communicating additional information and directed officers at scene to obtain additional information from the witnesses. Sergeant Huett broadcasted a request over Harbor Base Frequency for additional units to conduct the search and provide rear containment.

---

<sup>46</sup> The FID investigation revealed the mobile home which the officers used for cover was at Space No. 59, east of their parked police vehicle and southeast of David.

Sergeant West communicated with the officers at scene during his assessment of the incident, although he did not assign specific roles.

The UOFRB noted, and the Chief concurred, that due to the rapidly unfolding nature of this incident, the officers had limited time to react to the deadly actions of Raymond. The sergeants and officers at scene were required to make decisions that took into account their background, the quickly evolving actions of David and Raymond, and the officers' own safety. Officers Millan, Byrd, and Vocke's assessment and utilization of time also prevented David from being harmed and from Raymond endangering the residents within the community.

During the review of the incident, the following Debriefing Topics were noted:

### **Debriefing Point No. 1 Tactical Vehicle Deployment**

- *When stopping one or more suspect(s) using the police vehicle; position the patrol vehicle to maximize officer safety for both officers (Los Angeles Police Department Regular Basic Course, Tactics Lesson Plan, Pedestrian Stops, Page 7-8, February 2003).*

Officers Millan and Kisling drove into the mobile home park and were directed towards the radio call address by community members within the mobile home park. Officer Millan stopped his vehicle near the center of the street and two spaces south of the radio call location. Officer Millan's tactical vehicle deployment was not beneficial to the officers as it left distances between points of cover.

The UOFRB noted the width of the street on which Officers Millan and Kisling parked. As noted by FID investigators, the street width was considered to be narrow and the UOFRB determined there would have been little benefit had the officers parked in a different position. The UOFRB also noted Officers Millan and Kisling had a good sense of situational awareness as evidenced by their immediate redeployment.

Based on the totality of the circumstances, the Chief determined, that while identified as an area for improvement, the officers' actions were not a deviation from approved Department tactical training. The Chief will direct this be a topic of discussion during the Tactical Debrief.

### **Debriefing Point No. 2 Utilization of Cover** (Substantial Deviation, without Justification – Officers Vocke)

- *Cover is defined as any object or structure that will stop the opponent's bullets. Officers should attempt to move to and use available cover when involved in any tactical situation and especially when there are weapons involved. Officers should be aware of what items in their surrounding area can be used as cover and what*



*type of cover is required to stop specific rounds (handgun, shotgun, or rifle rounds) (Los Angeles Police Department, Basic Firearms Manual, July 2015).*

*Whenever possible, officers should place an object between themselves and the suspect as cover or a barrier. A barrier could be a chain link fence, wrought iron gate or any similar object that prevents the assailant from reaching the officer. If the suspect is contained and does not pose an immediate threat to officers, the public or himself/herself, time is our best tool. Time allows more opportunity to communicate with the suspect and helps to calm the situation (Los Angeles Police Department, Training Bulletin, Volume XLVI, Issue 3, Weapons Other Than Firearms, October 2017).*

Officers Millan and Kisling arrived at the location and exited their vehicles. David entered their view and was standing naked in the middle of the street. Officer Millan noticed that he and his partner were in front of their police vehicle and, while giving David commands, began to redeploy to the right side of their police vehicle to a different area of cover. Officers Millan and Kisling made their way toward the back of a mobile home and sign post.<sup>47</sup> Officer Millan was positioned offset and at an angle from the suspect, facing a northwest direction. After doing so, Officer Millan temporarily left the cover of the sign post, standing in the open as he was manipulating his radio; however, he corrected himself and redeployed to cover thereafter. Officer Millan then redeployed to his police vehicle in order to brief the arriving officers.

Officer Byrd arrived at the location as officers at scene were giving commands to David. As Officer Byrd gathered additional information about the possibility of a second suspect, he stood partially behind the police vehicle's ballistic door as cover. After Raymond exited the mobile home, Officer Byrd gave Raymond commands since Raymond's right hand was behind his back. Officer Byrd also did this without the full benefit of cover, leaving the left side of his body partially exposed. Once Officer Byrd observed Raymond had produced a handgun, Officer Byrd moved to his right to obtain additional cover behind the driver side door of the police vehicle.

Officer Vocke deployed his Patrol Rifle and walked to Officers Millan and Kisling's police vehicle. Officer Vocke stood next to and outside of the opened front driver side door prior to the OIS. Officer Vocke did not utilize available cover prior to or during the OIS in order to obtain a safe and optimal shooting platform.

The utilization of cover, coupled with distance, enables an officer to confront an armed individual while simultaneously minimizing their own exposure. As a result, the overall effectiveness of a tactical incident can be enhanced, while also increasing an officer's tactical options by using available cover.

---

<sup>47</sup> The FID investigation revealed the mobile home which the officers used for cover was at Space No. 59, east of their parked police vehicle and southeast of David.

In this case, Officers Millan and Kisling assessed after exiting their vehicle and realized they were not in an advantageous position of cover. The officers adjusted their tactics and moved to a position of cover. The UOFRB noted that after moving to a position of cover, Officer Millan at times stood outside of his position of cover. Officer Millan had observed that David was naked and had not seen David holding a weapon. However, even though David was not armed, Officer Millan continued to remain next to his position of cover and was conscientious of the need for it as evident by his continued redeployment to other positions of cover. Officers are reminded to utilize available cover whenever responding to a "shots fired" radio call if cover is afforded.

The UOFRB noted that in the case, Officers Vocke and Byrd arrived and immediately moved towards positions of cover; however, they did not utilize the available cover to their advantage. The officers did not communicate with each other regarding moving in closer to the door jamb and creating more room for themselves or seeking other options. Officer Byrd believed Officer Ramos was in a bladed stance which would allow him to move to cover if needed. The UOFRB discussed that officers must not rely on body language alone and must communicate their tactics with each other. Further, that officers also review all of their options at an incident. In this case, officers could have deployed a shield to provide themselves with additional cover when there was no room at the driver side door. Alternatively, officers could have redeployed to more advantageous positions available to them. Officer Vocke believed taking an advantageous shooting platform was a higher priority than taking cover. Officers Byrd and Vocke were in the open and could have been struck by a round had Raymond fired his handgun. Ultimately, for the safety of officers, the UOFRB determined that officers are not trained to sacrifice cover and place themselves at risk of harm.

Based upon the totality of the circumstances, the UOFRB determined that Officer Byrd's decision to maintain a position without the benefit of cover on a "shots fired" call where a potential suspect was not complying and concealing his hand, was a substantial deviation, without justification, from approved Department tactical training. While the Chief would have preferred Officer Byrd fully utilize the police vehicle's ballistic door panel, the Chief determined that Officer Byrd's partial use of cover behind the police vehicle's ballistic door panel did not substantially deviate from approved Department tactical training. The Chief will direct this be a topic of discussion during the Tactical Debrief.

Based upon the totality of the circumstances, the UOFRB determined, and the Chief concurred, that Officer Vocke's decision to maintain a position without the benefit of cover on a "shots fired" call where a potential suspect was not complying and concealing his hand, was a substantial deviation, without justification, from approved Department tactical training. The Chief will direct this be a topic of discussion during the Tactical Debrief.

**Debriefing Point No. 3 Basic Firearms Safety Rules / Operating a Moving Vehicle with a Service Pistol Drawn** (Substantial Deviation, without Justification – Officers Byrd, Vocke, and Blanco)

- *Firearms safety is critical. Officers must have the ability to draw, holster and manipulate weapons safely at all times, especially under stressful conditions. Firearms safety rules have been established based upon real life situations and are applicable at all times. Violations of any of the safety rules will not be tolerated.*

***The Four Basic Firearm Safety Rules***

1. *All guns are always loaded.*
2. *Never allow the muzzle to cover anything you are not willing to shoot.*
3. *Keep your finger off the trigger until your sights are aligned on the target and you intend to shoot.*
4. *Be sure of your target.*

*Officers are required to know and apply the Four Basic Firearm Safety Rules throughout their careers. These rules must be ingrained into an officer's natural thought process and become second nature. Any violation of the Four Basic Firearm Safety Rules may result in the unintentional discharge of a round. This is a serious matter with the potential of having tragic results.*

Officer Byrd unholstered his service pistol while driving his police vehicle to the incident. allowing the muzzle of his service pistol to cover his left arm as he was driving. Officer Byrd then placed his service pistol in between his legs with the muzzle pointed down. Officer Byrd had his service pistol unholstered for approximately two minutes until he holstered it upon hearing the officers had an individual in a prone position.

When Officer Blanco initially drew his service pistol at the rear bumper of Officer Millan and Kisling's police vehicle, Officer Blanco's BWV captured him holding his service pistol in a one- handed low-ready position. Shortly thereafter, Officer Blanco can be seen raising the muzzle higher, pointing it north toward Raymond. As he did so, Officer Millan can be seen in the foreground, in the open driver's door of the vehicle, in between Officer Blanco and Raymond. Additionally, Officer Blanco placed his finger on the trigger of his 40mm LLL while manipulating the weapon. Officer Blanco also placed his finger on the trigger of his 40mm LLL while he approached with the arrest team and with the 40mm LLL pointed in David's direction.

Officer Vocke placed his finger on the trigger of his Patrol Rifle while approaching David with the arrest team, thereby endangering David and increasing the possibility of an unintentional discharge.

The UOFRB analyzed the lengthy distance with which Officer Byrd drove his vehicle while holding his service pistol. The UOFRB noted Officer Byrd was not in immediate danger and determined it was unnecessary. The UOFRB discussed their concern for Officer Byrd's safety due to BWV evidence indicating his unnecessary drawing also lead to him covering his left hand with the muzzle of his service pistol. The UOFRB determined it to be an unnecessary and unsafe risk.

The UOFRB noted Officer Blanco should have had the situational awareness to realize he was in a disadvantageous position and did not take the opportunity to redeploy to a different point of cover. The UOFRB also noted the available space at the passenger door of the police vehicle which Officer Blanco was standing behind. Since Officer Millan was partially seated inside his vehicle, there was ample room for Officer Blanco to take up that position. However, Officer Blanco instead jeopardized Officer Millan's safety and placed Officer Millan in danger by having Officer Millan in his line of fire. The UOFRB took into account the fact that Sergeant West was heard on Officer Blanco's BWV stating, "get a gun on him," however, the UOFRB noted it was Officer Blanco's responsibility to ensure he had a clear background before doing so. The UOFRB also noted after the OIS, Officer Blanco unnecessarily placed his finger on the trigger of his weapon while walking towards David and pointing the weapon at David. The UOFRB also noted Officer Vocke, while approaching David, unnecessarily placed his finger on the trigger of his Patrol Rifle, placing David in danger. Officers are reminded to utilize situational awareness and adhere to the basic firearms safety rules.

Based upon the totality of the circumstances, the UOFRB determined, and the Chief concurred, that Officer Byrd's decision to unholster his service pistol, while driving to the radio call location, was a substantial deviation, without justification, from approved Department tactical training. The Chief will direct this be a topic of discussion during the Tactical Debrief.

The UOFRB determined, and the Chief concurred, that Officers Blanco and Vocke's actions of placing their fingers on the trigger of their weapons systems while pointed in the direction of other officers, as Officer Blanco did, and pointed at other individuals, as both officers did, were a substantial deviation, without justification, from Department policy and approved tactical training. The Chief will direct that this be topic of discussion during the Tactical Debrief.

### **Additional Tactical Debrief Topics**

- **Initiating Contact While Seated in Police Vehicle** – Officers Millan and Kisling arrived in the area of the incident where an individual approached them to provide additional information. The officers spoke with the individual while seated inside their police vehicle. The officers are reminded to exit their vehicles for the purposes of officer safety, when feasible, while talking to individuals at the scene of a radio call. The Chief will direct this be a topic of discussion during the Tactical Debrief.

**Use of Safety Belt** – Officer Byrd was driving his police vehicle and was not wearing a safety belt until driving Code Three. In addition, Officer Byrd prematurely removed his safety belt prior to arriving to the radio call. Employees and all others operating or riding in Department vehicles shall wear three-point safety belts when provided. As a tactical consideration, officers may remove their safety belts immediately prior to arriving at a location or stopping an individual. However, officers should be careful not to remove their safety belts prematurely and thus risk being without safety belt protection during a pursuit. Officer Byrd is reminded that the use of safety belts while operating a Department vehicle is mandatory. The Chief will direct this be a topic of discussion during the Tactical Debrief.

**Holding a Radio in One Hand and a Service Pistol in the Other** – Officer Millan held his service pistol in his right hand while broadcasting additional information to responding units with his radio in his left hand. Officer Millan did this twice while waiting for additional units to arrive. Officers are reminded to have both hands available during a “shots fired” radio call and to delegate such tasks to other officers who are in a better position to holster and utilize their radio. The Chief will direct this be a topic of discussion during the Tactical Debrief.

**Tactical Communications** – Officer Kisling redeployed during the OIS from the southwest corner of Space No. 59, to the southeast corner. Officer Kisling did not communicate her redeployment to the officers nearby. Officer Kisling’s service pistol was pointed perpendicular based on the angle of her position to the officers taking cover behind the police vehicle and actively firing at Raymond. Officer Kisling is reminded to be aware of her background and ensure she is not placing herself in a position where she may potentially cover a partner officer based on her positioned angle and where her weapon is not in a close proximity to a perpendicular position to other officers. The Chief will direct this be a topic of discussion during the Tactical Debrief.

**Holding a Service Pistol in One Hand and 40mm LLL in Other** – Officer Blanco held his 40mm LLL in his left hand while maintaining control of his service pistol in his right hand. Officer Blanco is reminded to have both hands available when handling his service pistol. The Chief will direct this be a topic of discussion during the Tactical Debrief.

**Simultaneous Non-Conflicting Commands** – Officers Byrd and Millan were giving simultaneous non-conflicting commands to Raymond as they ordered him to show his right hand which was hidden behind his back. Officers Byrd and Millan are reminded to designate one communications officer to verbalize with individuals to avoid confusion. The Chief will direct this be a topic of discussion during the Tactical Debrief.

**Designated Less-Lethal Duties/ Maintaining Control of Equipment** – Officer Blanco designated himself as the less-lethal option and deployed the 40mm LLL from the trunk of his vehicle. However, when Officer Blanco observed Raymond

enter into their view with his hand behind his back, Officer Blanco set his 40mm LLL on the ground in front of him instead of utilizing the sling. Officer Blanco drew his service pistol, leaving no less-lethal option available. Officer Blanco is reminded of the importance of each officer's roles and the need to maintain it. The Chief will direct this be a topic of discussion during the Tactical Debrief.

**Determining Death** – Officer Millan approached Raymond to take him into custody. Officer Millan handcuffed Raymond and checked his pulse. Officer Millan determined Raymond had no pulse. David was moved to safety prior to the warrantless search being conducted; however, the supervisors at scene did not direct the movement of Raymond. LAFD was not able to enter the scene until it was rendered safe. It is the responsibility of the ambulance crew, except when a person is obviously dead, to determine if death has occurred. The Chief will direct this be a topic of discussion during the Tactical Debrief.

**Updating Status** – Officers Garcia and Lindberg utilized their Mobile Digital Computer to place themselves Code Six. However, they were not placed at scene until fifteen minutes after arriving. Officers Garcia and Lindberg are reminded to ensure they are placed Code Six upon their arrival and discuss the benefits of voicing their Code Six over Harbor Base Frequency, when feasible. The Chief will direct this be a topic of discussion during the Tactical Debrief.

**Personal Protective Equipment** – Officer Millan approached Raymond to take him into custody and observed blood on Raymond. Officer Millan began putting on his gloves but stopped and proceeded to handcuff Raymond without donning his gloves. Officer Millan is reminded of the importance of officer safety in regard to blood-borne pathogens. The Chief will direct this be a topic of discussion during the Tactical Debrief.

- **Command and Control**

- *Command and Control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. Command uses active leadership to establish order, provide stability and structure, set objectives and create conditions under which the function of control can be achieved with minimal risk. Control implements the plan of action while continuously assessing the situation, making necessary adjustments, managing resources, managing the scope of the incident (containment), and evaluating whether existing Department protocols apply to the incident.*

*Command and Control is a process where designated personnel use active leadership to command others while using available resources to accomplish tasks and minimize risk. Active leadership provides clear, concise, and unambiguous communication to develop and implement a plan, direct personnel and manage resources. The senior officer or any person on scene who has gained sufficient situational awareness shall initiate Command and Control and develop a plan of*

*action. Command and Control will provide direction, help manage resources, and make it possible to achieve the desired outcome. Early considerations of PATROL will assist with the Command and Control process (Los Angeles Police Department, Training Bulletin, Volume XLVII Issue 4, July 2018).*

*Line Supervision – Defined. A supervisor who has the specific responsibility of issuing directions and orders to designated subordinates shall be considered as having the duty of line supervisor and shall be held accountable for achieving conformance with the directions and orders that he/she issues (Los Angeles Police Department Manual, Volume 3, Section 135).*

*Incident Commander (IC) – In accordance with Department Policy, the IC sets the objectives, the strategy and directs the tactical response. Directing the tactical response means applying tactics appropriate to the strategy, assigning the right resources and monitoring performance (Los Angeles Police Department, Supervisor's Field Operations Guide, Volume 2, Emergency Operations Guide).*

Sergeant West arrived at scene, assessed the incident, and assumed the responsibilities of the Incident Commander (IC). However, he did not broadcast that he would be the IC due to his perception that officers at scene already knew he was the incident commander. As David was standing naked in the center of the street and yelling at the officers, Sergeant West ordered officers to ensure they had both lethal and less-lethal weapons. Sergeant West did not designate a cover officer nor a designated lethal officer. Sergeant West stated he actively managed the incident by continually communicating with the officers and advising them to watch David's hands. He additionally instructed the officers to attempt giving commands to David in Spanish. Aside from the officers at scene, Sergeants West and Huett also gave commands to Raymond. After the OIS, Sergeant West formed three teams, including some of the officers directly involved in the OIS. Sergeant West ordered a team, which consisted of both GED, Vice, and Patrol Officers, to form near him to take David into custody. Sergeant West also advised officers to take Raymond into custody and to ensure the handgun was not moved in an effort to preserve evidence. Additionally, Sergeant West advised officers to provide cover of the mobile home in the event additional suspects were inside. While supervising the Non-Lethal Use of Force, Sergeant West advised the officers to apply an HRD on David and to move him from the area in front of the mobile home but neither Sergeant West nor Sergeant Huett address Raymond's location or his removal from in front of the mobile home at Space No. 40. Sergeant West ensured a RA had already been requested. Sergeant West coordinated with Sergeant Huett by compiling one team of officers to remain on the south side of the trailer and one search team to make entry. Sergeant West led the search team, which included some of the officers involved in the OIS, into the mobile home to clear it for possible downed individuals, rather than utilize or request uninvolved officers to conduct the warrantless search.

The UOFRB noted that while Sergeant West attempted to actively manage the incident, he did not utilize command and control in this incident. Sergeant West observed three of the officers at the opened driver side door of a police vehicle. Two of the three officers, Officers Byrd and Vocke, were not in positions of cover. The UOFRB determined it was incumbent upon Sergeant West to redeploy resources when necessary. With Officer Vocke having the Patrol Rifle, it was Sergeant West's responsibility to prioritize such weapon systems by moving them to advantageous positions of cover and stable shooting platforms. In addition, Sergeant West was standing directly behind Officer Blanco, the only designated less-lethal officer, and stated "get a gun on him." Sergeant West did not assign additional officers or a specific officer to be a less-lethal option, as Officer Blanco had taken it upon himself. Sergeant West was not specific when giving orders and assigning roles to officers. Although GED officers may have been familiar with Sergeant West's tactical planning and verbiage, there were other officers involved in the incident including Patrol and Vice resources who were not.

The UOFRB determined Sergeant West did not exercise control over the incident by providing appropriate commands to officers at scene and appropriately positioning and designating resources. Sergeant West's statements and recollections were not supported in the investigation and by BWV. Sergeant West did not formulate a plan, nor did he communicate this information to Sergeant Huett. In addition, Sergeant West stated he ordered officers to move David away from the scene but did not assign officers to move Raymond to safety. Sergeant West directed officers to cover the south window of the mobile home but unholstered his own service pistol post OIS because the window was not covered in a manner as he preferred. Sergeant West then directed officers to conduct a search of the mobile home at Space No. 40 without communicating to the officers or to Sergeant Huett their reason for conducting the search or designating roles. Specifically, Sergeant West's overall lack of a plan, clear and concise communication and subsequent lack of command and control over the incident was not consistent with using available resources, coordinating a response, accomplishing tasks and minimizing risks as outlined in the Department's Training Bulletin on Command and Control.

As a result, the UOFRB determined, and the Chief concurred, that the overall lack of appropriate supervisory oversight exercised by Sergeant West during the tactical incident prior to and after the OIS, substantially deviated without justification from approved Department supervisory training, and thus warranted a Tactics finding of Administrative Disapproval.

Sergeant Huett arrived simultaneously with Sergeant West. Sergeant Huett assisted Sergeant West in guiding the officers during their approach to cover the mobile home as the other teams took David and Raymond into custody. Sergeant Huett did request a beanbag and was unaware a 40mm LLL had been deployed. Sergeant Huett broadcasted a request over Harbor Base Frequency for additional units to conduct the search and provide rear containment. Sergeant Huett requested a RA after the OIS. Sergeant Huett also began admonishing all involved officers at scene



and ensured they were transported for monitoring to Harbor Station. Sergeant Huett ensured Officer Vocke's rifle was secured in the trunk of his (Sergeant Huett's) vehicle and that the vehicle was locked and secured as well.

The UOFRB noted Sergeant Huett had arrived fifteen seconds prior to Sergeant West but took little action in creating a tactical plan with the officers. Sergeant Huett did not assign a less-lethal officer or a designated cover officer. The UOFRB noted it is the expectation of the Department for supervisors to take active leadership and not rely on another supervisor to complete all the required tasks. The UOFRB noted that it was not sufficient that Sergeant Huett's only significant action in this incident was requesting an RA. In addition, the lack of communication between Sergeant Huett and Sergeant West was evident when Sergeant Huett notified LAFD that the scene was not safe to enter to provide immediate aid to Raymond. The UOFRB noted that Sergeant West was conducting a search for victims which would have made it safe for LAFD to enter and provide treatment to Raymond and David. As a result of the search, LAFD was not able to enter the scene until it was rendered safe causing a delay in Raymond's medical treatment. The UOFRB noted the interactions between Sergeants Huett and West were not based on communication but rather on body language and assumptions which caused mismanagement of the scene.

As a result, the UOFRB determined, and the Chief concurred, that the lack of appropriate supervisory oversight exercised by Sergeant Huett during the tactical incident prior to and after the OIS, substantially deviated without justification from approved Department supervisory training, and thus warranted a Tactics finding of Administrative Disapproval.

Sergeant Hearn was assigned as the Harbor Watch Commander and responded to the scene. Sergeant Hearn immediately began obtaining information about the incident and who the involved personnel were. Sergeant Hearn completed notification of the OIS to the Department Operations Center (DOC) and obtained additional supervisors to assist in the separation and monitoring. Sergeant Hearn admonished and took a Public Safety Statement (PSS) from Officers Vocke, Millan, Kisling, Byrd, and Sergeant West.

The UOFRB noted that officers were not stationary at the scene after they had been admonished and pending the arrival of additional supervisors. Sergeant Hearn is reminded of the importance of adhering to the post Categorical Use of Force protocols, including the monitoring of officers involved in an OIS, until additional resources have arrived. Overall, the actions of Sergeant Hearn were consistent with Department supervisory training and met my expectations of a watch commander during a critical incident.

Sergeant J. Talmage, Serial No. 34671, Harbor Patrol Division, obtained a PSS from Officer Ramos and monitored him. The actions of Sergeant Talmage<sup>48</sup> were consistent with Department supervisory training and met my expectations of a field supervisor during a critical incident.

Sergeant Knoke arrived at the scene after the OIS and determined Officers Kisling and Millan needed cover as they held the south end of the radio call location. Sergeant Knoke pulled a trash bin out for the officers so they could utilize it as cover. After the tactical situation was completed, Sergeant Knoke assisted Sergeant West with separation and monitoring of involved officers. Sergeant Knoke monitored Officer Kisling until she was transported from the scene. The actions of Sergeant Knoke were consistent with Department supervisory training and met the Chief's expectations of a field supervisor during a critical incident.

### **Tactical Debrief**

- In conducting an objective assessment of this case, the UOFRB determined, and the Chief concurred, that the tactics utilized by Officers Ramos, Millan, Kisling, Garcia, and Lindberg did not deviate from approved Department tactical training. However, Sergeants West and Huett, along with Officers Vocke, Byrd, and Blanco's tactics did substantially deviate, without justification, from approved Department tactical training.

Each tactical incident also merits a comprehensive debriefing. In this case, there were areas identified where improvement could be made. A Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

Therefore, The Chief directed that Sergeants West and Huett along with Officers Millan, Kisling, Vocke, Ramos, Byrd, Blanco, Garcia, and Lindberg attend a Tactical Debrief and that the specific identified topics be discussed.

**Note:** Additionally, the Tactical Debrief shall also include the following mandatory discussion points:

- Use of Force Policy;
- Equipment Required/Maintained;
- Tactical Planning;
- Radio and Tactical Communication (including Code Six);
- Tactical De-Escalation;
- Command and Control;
- Lethal Force.

---

<sup>48</sup> A supplemental report from the Chief of Police, dated August 3, 2020, amended an error in the original Chief's report referencing Sergeant Hearn instead of Sergeant Talmage at this point.

## General Training Update (GTU)

- On October 3, 2019, Officers Vocke and Byrd attended a General Training Update and on October 15, 2019, Officer Millan attended a General Training Update. All mandatory topics were covered which included the following: Firearms as it pertains to recognition of distances when firing, Force Option Simulator, Reverence for Human Life, Use of Force Policy, Tactical De-escalation, Equipment Required, and Command and Control.

## Drawing/Exhibiting

- Department policy relative to drawing and exhibiting a firearm is: *“An officer’s decision to draw or exhibit a firearm should be based on the tactical situation and the officer’s reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified”* (Los Angeles Police Department Manual, Volume No. 1, Section 556.80).

### Officer Vocke

According to Officer Vocke, he knew the radio call was a “shots fired” call. Because the situation could have risen to the use of deadly force and due to his distance from David, Officer Vocke chose to deploy his Patrol Rifle for accuracy. Officer Vocke retrieved the Patrol Rifle from the trunk of his police vehicle. After conducting a chamber check, Officer Vocke chambered a round, then held the Patrol Rifle in a port arms position. Officer Vocke brought his Patrol Rifle to a low-ready as he made his way towards the front of the police vehicle.

Officer Vocke recalled,

*I went to the trunk and deployed my police rifle... Knowing that it's a shots fired radio call already, that's why I deployed the rifle just because of the situation could arise to the use of deadly force. And more specifically the rifle is more accurate for distance. And because of the distance we had, I felt like I should use it. Just have a more accurate shot, if needed.*<sup>49</sup>

*There was a mag seated, but there was not one chambered. So I just had to chamber a round. I chamber checked, chambered a round, and then I closed the trunk... initially it was port arms and then I came to low-ready and slung it. I had a tac sling on it... Prior to making my way to the front of the SUV.*<sup>50</sup>

---

<sup>49</sup> Officer Vocke Page 8, Lines 3-4, 12-18.

<sup>50</sup> Officer Vocke Page 12, Lines 21-24 and Page 13, Lines 4-6, 9-10.

*I had one 30-round mag in the rifle, which was loaded to 28, and then I had three -- one in my handgun -- or my Glock and two in the mag pouches.<sup>51</sup>*

### **Officer Ramos**

According to Officer Ramos, he heard the comments of the radio call which stated there was a possible gun involved. Officer Ramos believed the situation was going to escalate to the point where deadly force was necessary and unholstered and drew his service pistol.

Officer Ramos recalled,

*I believe as soon as we arrived and based on the radio call of a possible gun.<sup>52</sup> I walked back to my, or to their patrol car and unholstered because I had reason to believe that the situation was going to escalate to the point where deadly force was necessary.<sup>53</sup>*

### **Officer Millan**

According to Officer Millan, due to the comments of the radio call, which stated shots had been fired at the location, Officer Millan unholstered his service pistol.

Officer Millan recalled,

*Right when the first suspect came out of the house, we -- that's when I decided to unholster my weapon due to the comments of the call that it was shots fired at that location.<sup>54</sup>*

### **Officer Kisling**

According to Officer Kisling, she heard the comments of the radio call, which stated witnesses observed a man with a handgun and witnesses at the location advised the officers that they did see a man with a gun. Officer Kisling believed the situation could escalate to the point where deadly force would be justified. Officer Kisling exited her police vehicle upon arrival and utilized her right hand to unholster and draw her service pistol. Officer Kisling maintained her finger along the frame of the pistol and held it in a two-hand low-ready.

---

<sup>51</sup> Officer Vocke Page 14, Lines 20-23.

<sup>52</sup> Officer Ramos Page 15, Lines 3-4.

<sup>53</sup> Officer Ramos Page 6, Lines 7-10.

<sup>54</sup> Officer Millan Page 16, Lines 1-4.

Officer Kisling recalled,

*The reason why I unholstered, because the comments of the call and because the witnesses or bystanders in the trailer park were saying that they did see a man with a gun over in that yellow... and white trailer. And so, I believed that the -- because of the situation and all that stuff, it could definitely escalate to the point where the use of deadly force would be justified.... It was a two-hand low-ready.... I unholstered with my right... Along the frame. ....as soon as I exited the vehicle.<sup>55</sup>*

**Officer Byrd (First Drawing/Exhibiting)**

According to Officer Byrd, he was aware of multiple shootings which had occurred in the area and had heard the comments of the "shots fired" radio call. Officer Byrd observed multiple cars on the west side of the street and could not see between the cars. Officer Byrd was unsure if a possible suspect was hiding between the cars, waiting to ambush them. Officer Byrd, while driving towards the location, unholstered his service pistol with his right hand while maneuvering his police vehicle with his left hand. Officer Byrd pointed his service pistol down and, while looking straight ahead, placed his service pistol between his legs, with his finger along the frame.

Officer Byrd recalled,

*Due to multiple shootings in the City of Wilmington, I know that area is crime -- with Westside Wilmas gang members, who are not friendly with LAPD and law enforcement... In my opinion, the shots fired calls -- or comments of the call kept arising. In my opinion, I felt the need -- because we were in a tactical situation. Although I was driving a car, I unholstered my firearm, because there was multiple cars on the west side of the street, and I couldn't see in between them. I didn't know if the suspect ran from the location going northbound or could be hiding between cars.<sup>56</sup>*

*There was no radio chatter, so I didn't know if the suspect or suspects possibly fled from the location or hiding between cars. And I'm driving southbound. So I unholstered in case the suspect was in between the cars or waiting and hiding, maybe an ambush or such.... So I had my -- my -- I had my hand on the steering wheel... My left hand on the steering wheel, and then my service weapon is on my right hip. I just unholstered it and then I had it in a down position between my legs... And away from my arm, away from me feet and everything, but it was pointed down. And I was looking both straight ahead and then clearing each car as we were going up... it was on the slide of the firearm.... along the frame.<sup>57</sup>*

---

<sup>55</sup> Officer Kisling Page 10, Lines 22-25; Page 11, Lines 9, 12, and 15, and Page 13, Lines 21-22

<sup>56</sup> Officer Byrd Page 7, Lines 22-25 and Page 8, Lines 1-9.

<sup>57</sup> Officer Byrd Page 13 Lines 16-21; Page 14 Lines 3-4, 6-9, 11-14, 18-19, and 21.

The UOFRB discussed Officer Byrd's first instance of Drawing/Exhibiting and determined that Officer Byrd was not in any danger at that point due to the distance from radio call and instead, put himself at risk by driving with his service pistol drawn. Additionally, the UOFRB noted that Officer Byrd had his service pistol drawn for an extended period of time while driving.

#### **Officer Byrd (Second Drawing/Exhibiting)**

According to Officer Byrd, while driving to the location, he heard a unit broadcast that they had an individual proned out. Officer Byrd holstered his service pistol. Officer Byrd arrived at the location, exited his vehicle, and asked the officers at scene if they had located the second guy from the radio call who was shooting in the air. After learning he had not been located, Officer Byrd unholstered his service pistol again, believing that there was a second suspect which could have been inside one of the residences. Officer Byrd held his service pistol in the low-ready position with two hands, and his finger on the slide.

Officer Byrd recalled,

*So when we made a turn -- I can't recall the street. But when we went back up the alley, I heard one of the units at scene said they have the suspect proned out. That's when realized, okay, maybe put it back. Then I put my service weapon back into my holster and then I went and observed the two black and whites, but then I realized I didn't see the second guy... We were traveling westbound in an east/west alley just south of the trailer homes... So I exit the vehicle -- my vehicle. I walk up and then I notice there's not the second guy there based on the comments of the call. And I asked, "Where's the second guy?" And then I heard someone say, "Hey, when we got here, it was only this guy."... And I know I heard the radio call say white shirt was the one shooting on the air.... That's when I unholstered my firearm again believing that it could be a second suspect in at least one of the residence.<sup>58</sup>*

*So low-ready position... But locked out... Two hands, just the way I train... And my finger was on the slide -- or on the frame of the weapon.<sup>59</sup>*

#### **Officer Blanco**

According to Officer Blanco, he observed a second male exit the radio call location who was concealing his right arm behind his back. Officer Blanco knew something was not right since it was not common for individuals to be hiding their hands behind their back. Officer Blanco knew it was common for individuals to hide their hands

---

<sup>58</sup> Officer Byrd, Page 15 Lines 3-10 and 24-25; Page 16, Lines 8-13, 15-17, and 19-21.

<sup>59</sup> Officer Byrd Page 17 Lines 1-2, 4, 7, 11-12, 14-15.

once they are armed. Officer Blanco set down his 40mm LLL and unholstered and drew his service pistol.

Officer Blanco recalled,

*...when a second suspect came out from space number 40, the yellow and white house, concealing his right arm behind his back, and was walking towards the naked individual that was in the middle of the street... At that time, I went and set the 40-millimeter down to the ground because due to my training and experience, I knew something wasn't right. It is not common for individuals to be hiding their hands behind their back. And it is known for individuals to do that once they're armed. So when I set the 40-millimeter down on the ground, I unholstered my duty weapon.<sup>60</sup>*

### **Officer Garcia**

According to Officer Garcia, he heard the comments of the call indicating a male was shooting into the air. Upon arriving, Officer Garcia heard gunshots and observed a male laying on the ground. Officer Garcia also observed a handgun near Raymond. Officer Garcia believed David, who was not listening to commands, could have easily grabbed the gun too. Unsure if Raymond would grab the handgun, Officer Garcia unholstered his service pistol and took cover at Officers Millan and Kisling's driver side door.

Officer Garcia recalled,

*I saw the gun. Comments of the call said the guy was shooting in the air. The guy that was laying on the ground matched the description of the guy of the radio call. I heard gunshots. I look over and I see the gun. I wasn't sure if this guy would get up, grab the gun. There was another individual in the back, naked, possibly under the influence of drugs, and not listening to our commands. He could have easily grabbed the gun too.<sup>61</sup>*

### **Officer Lindberg**

According to Officer Lindberg, he heard approximately ten gunshots upon arriving at the location. Officer Lindberg believed the tactical situation could have easily escalated to the point of deadly force. Officer Lindberg unholstered his service pistol and took cover at the passenger side door of Officers Millan and Kisling's police vehicle. Officer Lindberg observed a handgun approximately three feet away from Raymond, who was laying on the ground and bleeding.

---

<sup>60</sup> Officer Blanco Page 7, Lines 14-17 and Page 8 Lines 2-8.

<sup>61</sup> Officer Garcia, Page 18, Lines 3-12.

Officer Lindberg recalled,

*And there was approximately ten - - ten shots.*<sup>62</sup>

*Based on the tactical situation. I observed a handgun approximately three feet away from the suspect. I heard multiple gunshots ring out. The type of situation that it could have easily escalated to the point of where deadly force could have been used.*<sup>63</sup>

### **Sergeant West**

According to Sergeant West, he began unholstering his service pistol when he observed David exit the mobile home at the scene of the radio call. Sergeant West unsnapped his holster and began to draw his service pistol half way out of its holster. Sergeant West realized his role as a supervisor in this incident, re-holstered his service pistol, and secured it in the holster by snapping it close. He did not completely unholster his service pistol.

Sergeant West recalled,

*I did see the male Hispanic exit the trailer, instinctively, I did go to my weapon system...but as quickly as I went to it, I immediately – I – it may have been half out, half in. I immediately realized my role in this. Reholstered the weapon, which was half out, snapped up, and started to give officers commands on – on what I thought needed to take place.*<sup>64</sup>

According to Sergeant West, he directed officers to cover the south window of the trailer. Sergeant West unholstered his service pistol since the window was not *being covered* to his *liking*. Sergeant West *readjusted* his officers to have the *window covered* to his *liking* and holstered.

Sergeant West recalled,

*It wasn't being covered exactly to my liking. So that's when I unholstered and I took up a position of cover on the windows as well. Once I was able to get officers readjusted to have that window covered to my liking, then I went ahead and reholstered.*<sup>65</sup>

---

<sup>62</sup> Officer Lindberg Page 28, Line 14.

<sup>63</sup> Officer Lindberg Page 14, Lines 12-17.

<sup>64</sup> Sergeant West Page 33, Lines 10-11 and Lines 14-18.

<sup>65</sup> Sergeant West Page 13, Lines 10-14.



## Sergeant Huett

According to Sergeant Huett, he observed Raymond holding his right hand behind his back and refusing to comply when directed to show his right hand. Based on the Raymond's actions and the comments of the radio call stating shots had been fired, Sergeant Huett drew his service pistol believing the situation would escalate to a potential use of deadly force. According to Sergeant Huett, after the OIS occurred, he immediately holstered his service pistol.

Sergeant Huett recalled,

*...diverted, I could see the suspect holding his right hand behind his back. At that point, I could hear Sergeant West, you know, "Show us your hands, show us your hands," the suspect not complying, and believing that the situation, because of the shots fired call, the suspect matching the description came out and was possibly armed. I drew my firearm at that point believing the situation would escalate to a potential use of deadly force. Immediately as -- as I drew my weapon and aimed on range, the suspect came out from his right -- his right hand from behind his back and produced a firearm. Subsequently, shots rang out, the suspect went down. I -- I immediately holstered my -- my firearm at that 20 point.<sup>66</sup>*

Sergeant Huett recalled,

Sergeant Huett observed Officer Kisling position herself farther east along the mobile home. Sergeant Huett noticed Officer Kisling was too far back and wanted her to move west towards the corner of the trailer to get a better vantage point on the target location. Sergeant Huett unholstered his service pistol, post OIS, to advance to Officer Kisling's position while covering the target location. Upon reaching Officer Kisling's position and redeploying to a better vantage point with her, Sergeant Huett re-holstered his firearm.

*Upon noticing her that far back, I had her move to her west towards the corner of the trailer to get a better vantage point on the target location. At that point, I withdrew my firearm again and advanced to her position covering the target location. Once I made it to her location, and to ensure she was in place and had 4 a good vantage point, I reholstered my firearm.<sup>67</sup>*

*My thought process was to -- well, obviously, drawing my weapon at that point and advancing downrange. The target location had not been cleared so we were not -- we weren't aware of any other suspects, but we knew we couldn't rule it out. So crossing that threshold between the shops and the -- and Officer Kisling's position, I*

---

<sup>66</sup> Sergeant Huett Page 9, Lines 7-21.

<sup>67</sup> Sergeant Huett Page 9, Lines 24-25 and, Page 10, Lines 1-5.

*drew my weapon to cover that distance in the event that I was engaged or had to engage the suspect, as I made my way across that street.*<sup>68</sup>

In this case, the UOFRB conducted a thorough review and evaluation of the reasonableness of Sergeants West and Huett, as well as Officers Millan, Kisling, Vocke, Ramos, Byrd, Blanco, Garcia and Lindberg's Drawing/Exhibiting. The UOFRB noted that Officers Millan, Kisling, Vocke, Ramos, Blanco, Garcia and Lindberg's initially drew their service pistols due to the nature of the radio call. The radio call indicated there was an armed suspect who had already fired his handgun. Each officer was fearful for not only the safety of himself or herself but of each other's safety as well. Sergeant West did not complete the unholstering and drawing of his service pistol initially, recognizing his responsibility as a supervisor on scene. When Sergeant West unholstered his pistol to cover the trailer's southern window facing east, he did so upon recognizing a tactical deficiency. Upon correcting the tactical concern by re-positioning officers, he re-holstered his service pistol.

The UOFRB noted Officer Byrd's Drawing/Exhibiting at the scene of the radio call was the second time he had done so prior to the OIS. Officer Byrd also stated he drew his service pistol due to the comments of the radio call but added that, upon his arrival, he was concerned that there was a second suspect who had not been located. The UOFRB determined that Officer Byrd's second instance of Drawing/Exhibiting was justified and for his own safety. However, the UOFRB discussed Officer Byrd's first instance of Drawing/Exhibiting and determined he was not in any danger and instead, put himself at risk by driving with his service pistol drawn. Additionally, Officer Byrd had his service pistol drawn for an extended period of time while driving. Therefore, the UOFRB determined, and the Chief concurred, that Officer Byrd's first instance of Drawing/Exhibiting was Out of Policy, Administrative Disapproval.

Based on the totality of the circumstances, the UOFRB determined that an officer with similar training and experience as Sergeants West and Huett, Officers Millan, Kisling, Vocke, Ramos, Byrd (Second Drawing), Blanco, Garcia and Lindberg's while faced with similar circumstances, would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

In considering the UOFRB's decision, the Chief reviewed the circumstances and justification provided by Sergeant West's, Officers Millan, Kisling, Vocke, Ramos, Byrd (second drawing), Blanco, Garcia, and Lindberg's to draw and exhibit their service pistols. Furthermore, the Chief recognized that Sergeant West was handling multiple tasks during the incident and had corrected himself as he began to draw his service pistol, recognizing his responsibility as a supervisor at scene. Upon recognizing a tactical deficiency, Sergeant West unholstered his service pistol to cover the south window as the officers behind him were taking David into custody. Sergeant West corrected the deficiency by re-positioning officers and re-holstered

---

<sup>68</sup> Sergeant Huett Page 14, Lines 20-25 and, Page 15, Lines 1-3.

his service pistol after making the correction. The Chief determined that Officers Millan, Kisling, Vocke, Ramos, Byrd (Second Drawing), Blanco, Garcia, and Lindberg's, as well as Sergeant West's Drawing/Exhibiting to be In Policy, No Further Action.

In the case of Sergeant Huett, this incident may have benefitted from the redeployment of officers for a more effective use of cover and designated assignments to reduce the number of lethal options deployed and incorporate additional less-lethal options at scene. Sergeants West and Huett were in the best positions to initiate such a redeployment of resources as several officers had already unholstered and drawn their service pistols and a rifle. As a tenured supervisor, Sergeant Huett's decision to draw and exhibit his service pistol behind the cover of a police vehicle, and again when he redeployed to Officer Kisling's position at a trailer, limited his ability to provide oversight, assess the rapidly evolving incident, designate roles to the officers, and reposition the officers at scene. For this incident, the Chief did not concur with the UOFRB's recommendation regarding Sergeant Huett's decision to draw and exhibit his service pistol. Therefore, the Chief determined that Sergeant Huett's Drawing/Exhibiting was Out of Policy, Administrative Disapproval.

#### **Use of Force – General<sup>69</sup>**

- *It is the policy of this Department that personnel may use only that force which is "objectively reasonable" to:*
  - *Defend themselves;*
  - *Defend others;*
  - *Effect an arrest or detention;*
  - *Prevent escape; or,*
  - *Overcome resistance*

*The Department examines reasonableness using Graham v. Connor and from the articulated facts from the perspective of a Los Angeles Police Officer with similar training and experience placed in generally the same set of circumstances. In determining the appropriate level of force, officers shall evaluate each situation in light of facts and circumstances of each particular case. Those factors may include, but are not limited to:*

- *The seriousness of the crime or suspected offense;*
- *The level of threat or resistance presented by the subject;*
- *Whether the subject was posing an immediate threat to officers or a danger to the community;*
- *The potential for injury to citizens, officers or subjects;*

---

<sup>69</sup> Special Order No. 4, 2020 – Policy on the Use of Force - Revised, was adopted by the Department on February 5, 2020, after this incident occurred.

- *The risk or apparent attempt by the subject to escape;*
- *The conduct of the subject being confronted (as reasonably perceived by the officer at the time);*
- *The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;*
- *The availability of other resources;*
- *The training and experience of the officer;*
- *The proximity or access of weapons to the subject;*
- *Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number officers versus subjects; and,*
- *The environmental factors and/or other exigent circumstances (Los Angeles Police Department Manual, Volume 1, Section 556.10).*

## Non-Lethal Use of Force<sup>70</sup>

### **Officer Ramos – Firm Grip, Physical Force, Bodyweight.**

According to Officer Ramos, he approached David, who was facing stomach down on the ground. Officer Ramos was on David's left side and began his attempt at taking David into custody by placing handcuffs on him. Officer Ramos observed that David had placed his right arm underneath his body to avoid being handcuffed. Officer Ramos used a firm grip to take control of David's left arm and left wrist to place the handcuffs on his left wrist. Officer Ramos then utilized his upper torso and arms to gain leverage by utilizing bodyweight on David's left arm. Officer Ramos obtained control of David's left wrist and placed a handcuff on it.

Officer Ramos recalled,

*He was holding his -- he was keeping his right arm, I believe, under him or he -- he just wasn't going with the program.<sup>71</sup>*

*I didn't put any knees or anything onto him. I just used my upper torso and my arms to put the -- gain leverage on... His left arm... I did use a firm grip... To control his left -- left arm and left wrist...I was attempting to place my handcuffs on his left wrist.<sup>72</sup>*

*I continued to use body weight on his elbow. And then I had control of his wrist with my right hand. But mostly body weight.<sup>73</sup>*

---

<sup>70</sup> Los Angeles Police Department Manual, Volume 1, Section 556.10.

<sup>71</sup> Officer Ramos Page 28, Lines 24-25.

<sup>72</sup> Officer Ramos Page 27, Lines 8-10, Line 12, and Line 24; Page 28, Lines 1-2.

<sup>73</sup> Officer Ramos Page 42, Lines 6-8.

*So I had his left wrist handcuffed. They had -- eventually got his right wrist handcuffed, and we simultaneously linked them together... I was on the right side holding -- his right arm.<sup>74</sup>*

**Officer Byrd – Strikes, Firm Grip, Bodyweight.**

According to Officer Byrd, he utilized his right hand to place his handcuffs on David's right wrist and placed his left knee onto David's back. Officer Byrd stated he utilized a "three points of contact" approach that he learned during Department training. David began resisting by placing both of his hands under his chest area while facing the ground. Officer Byrd utilized force to keep David's right hand up. David began resisting and attempted to place his arms under his chest. Officer Byrd kept his right hand on David's wrist while trying to lock out David's elbow, so David would stop resisting. However, Officer Byrd realized he was slipping off David because of his sweat. Officer Byrd utilized bodyweight by laying on David. David continued to resist and kept his hands underneath his chest. Officer Byrd believed there was a third suspect nearby and was in the danger zone who could fire rounds at him. Officer Byrd believed he needed to quickly take David into custody. Officer Byrd utilized his left elbow multiple times to strike David in the front and back of his head in order to loosen him up. Officer Byrd also utilized his right elbow to strike David once or twice more. Officer Byrd struck his elbow against the concrete and stopped utilizing his elbow to strike David. Officer Byrd grabbed David's right arm and successfully connected both handcuffs together.

Officer Byrd recalled,

*I did knee/elbow/ wrist just like they teach us in the academy, and I put my -- using my right hand, I put my cuffs on his right wrist and then that's when he started giving resistance... Once he started giving resistance, he tried to put both his hands in his chest area while he was on the ground face down. I then start using force to keep his hands up -- his right hand up.<sup>75</sup>*

*...I just stepped over him and placed my left knee into his back and tried to do the knee/elbow/wrist technique.<sup>76</sup>*

*We put our knee and then we grab their elbow and their wrist.<sup>77</sup>*

---

<sup>74</sup> Officer Ramos Page 30, Lines 21-23 and Page 32, Lines 22-23.

<sup>75</sup> Officer Byrd Page 11, Lines 6-9 and Lines 11-14.

<sup>76</sup> Officer Byrd Page 66, Lines 5-7.

<sup>77</sup> Officer Byrd Page 43, Lines 19-20.

*So then I kept my right hand on his wrist, and I tried to lock his right elbow out, so he won't do that. But then I realized I was slipping off of him, because he was naked, he was sweaty. Then I said, you know what, I'm a big guy. I'm just going to lay on him and then try and do it that way.<sup>78</sup>*

*Then he started getting a little bit stronger. And believing that it possibly was a third suspect, then I'm like, okay, we're in a danger zone. We shouldn't be right here fighting this dude, but we're here. I start giving him strikes to his head using my elbow -- both elbows.<sup>79</sup>*

*I'm trying to hit him -- like hit him in his head so he can loosen up...I don't remember how many times I hit him with elbow or not... I know I struck him multiple times with my elbow... Some was to his back and some was to his head...And then at one point he like kind of tucked his head in, so then was doing it to the back of his head... He placed his head into the concrete, because he was trying to dodge the strikes. So his head was fully into the concrete. And then I think at one point my elbow actually hit the concrete and then I'm like, dude, forget this and I just grabbed his right arm...And he gave me his arm -- he gave me his left arm and then we placed the handcuffs on him.<sup>80</sup>*

#### **Officer Garcia – Strikes, Firm Grip.**

According to Officer Garcia, as he began to move to David's legs to take control of them, he heard another Officer ask for help with David's upper torso area. Officer Garcia approached the right side of David's body and attempted to utilize a firm grip on David's right arm, which was tucked under his body. However, David slipped out of Officer Garcia's grip due him being sweaty. Officer Garcia gave David commands to stop resisting but David did not comply. Officer Garcia utilized his right knee to apply two distraction strikes to David's right upper rib and shoulder area; however, David continued to resist the officers. Officer Garcia utilized two additional strikes to David's upper rib area. Officer Garcia observed it had no effect on David. Officer Garcia utilized one additional strike to David's upper rib area. David gave up and was taken into custody.

Officer Garcia recalled,

*They were struggling with him. As we're trying to -- as I was going for his legs, the individual that's naked, an officer said, "I need help in the upper torso area." I went to try to help him by grabbing the individual's right arm, which he had tucked underneath his body. But as I grabbed it, it slipped out. He was sweating. He was*

---

<sup>78</sup> Officer Byrd Page 44, Lines 15-21.

<sup>79</sup> Officer Byrd Page 11, Lines 14-20.

<sup>80</sup> Officer Byrd Page 45, Lines 14-15, 19-20, and 22-23; Page 46, Lines 2-3, 7-9, 12-17, and 23-24.

*bleeding. I then gave him commands to give his arms, stop resisting. It wasn't working. I then decided with my right knee to give him distraction strikes on the right side of his body. I gave him two strikes. I told him, "Stop resisting." He still wouldn't do it. I assessed. I gave him two more strikes. Still no effect. Gave him one last strike. At which point he says, "Okay. Okay. I give up." We then grab -- his arm was grabbed. It wasn't by me. And he was taken into custody.<sup>81</sup> I'm on the right side of his body...I'm pretty much kneeling down next to him as I'm trying to grab his wrist and his arm, and I can't, so I start kneeling -- I start kneeling him... I'm telling him, "Stop resisting." Another officer is telling him, "Hey, give me your hand. Give us your hand." Multiple commands are given to him and he's not responding... Approximately five... Same area. And I'm -- I was trying to give them to his shoulder too.<sup>82</sup>*

**Officer Lindberg – Bodyweight, Physical Force.**

According to Officer Lindberg, he utilized his right knee to apply bodyweight to David's rear thigh, above the knee. David was very strong and was able to still lift his legs up. Officer Lindberg wrapped his arms around David's legs and crossed David's ankles. Officer Lindberg was given a hobble restraint device (HRD) and assisted in placing it around David's ankles. Officer Lindberg pulled the HRD's strap and tightened it.

Officer Lindberg recalled,

*I applied my right knee... to the suspect's back thigh. He was face down. It would be his right back thigh just above his knee to pin his leg to the ground. Like I said, he was very strong. He was able to kind of lift it up. And then I wrapped my arms around, kind of as a bear hug, and crossed his ankles.... guy's ankles into a hobble. And Officer Ramos handed me the hobble, and we both kind of assisted putting the hobble around his ankles... We both took it because he was still flailing his ankles. And we just had to move it around his feet and pull it down to his ankles and then we pulled the strap to tighten it.<sup>83</sup>*

The UOFRB noted David's initial level of resistance was strong enough to warrant the officers' level of force. Officer Byrd approached David utilizing a "three points of contact" approach which is a Department approved tactic to take a resistant suspect into custody. Given David's reaction to his approach, Officer Byrd used reasonable force to overcome his resistance. As David continued to resist, Officers Byrd and Garcia used appropriate distraction strikes to lessen the amount of time they were exposed to the front of the mobile home by forcing David to release his arms from his chest. The UOFRB determined the officers were justified in wanting to remove

---

<sup>81</sup> Officer Garcia, Page 10, Lines 12-25 and Page 11, Lines 1-5.

<sup>82</sup> Officer Garcia Page 23, Lines 6-7, 11-14, Page 24, Lines 9-12, 18, 20-21.

<sup>83</sup> Officer Lindberg, Page 21, Line 25 and Page 22, Lines 1-6 and Lines 12-14 and 17-20.

themselves from the danger zone and in doing so, used elbow strikes and knees to gain compliance. Since David was in close proximity, with his hands tucked under his waist, it appeared to be sufficient force that was used and resulted in the successful handcuffing of David.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that an officer with similar training and experience as Officers Byrd, Ramos, Garcia, and Lindberg, while faced with similar circumstances, would believe that the same applications of non-lethal force would be reasonable to overcome Raymond's resistance and effect his arrest.

Therefore, the Chief found Officers Byrd, Ramos, Garcia, and Lindberg's Non-Lethal Use of Force to be objectively reasonable and In Policy, No Further Action.

### **Lethal Use of Force**

- *Law enforcement officers are authorized to use deadly force to:*
  - *Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or,*
  - *Prevent a crime where the subject's actions place person(s) in imminent jeopardy of death or serious bodily injury; or,*
  - *Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall, to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury (Los Angeles Police Department Manual, Volume No. 1, Section 556.10).*

**Officer Vocke** – 5.56mm, five rounds in a northern direction from an approximate distance of 53 feet.

According to Officer Vocke, Raymond was facing in his direction as he began placing himself behind David, to use him as a shield. Raymond held his right hand behind his back, out of view, and was standing behind David when he took one half of a right step, exposing the right side of his body. All in one motion, Raymond swung his right hand from his back towards his right hip and produced a black semi-automatic handgun. Raymond started punching the handgun out into the direction of Officer Vocke. Officer Vocke utilized his Patrol Rifle to stop the threat and fired his first round at Raymond's center body mass, on his right side, to avoid hitting David who was unarmed.



Officer Vocke recalled,

*Coming out from that right side right to his -- it would be right to his right hip. I could see a black handgun. And as soon as he started punching it out towards us, that's when I fired... And kind of all in one motion he kind of stepped out and produced it. So he kind of gave just maybe -- gave up part of his right side of his body. He was still kind of behind the other individual as he was punching the handgun out... He was facing towards us.... He was facing straight on all the officers .... He was standing right behind him. Like I said, once he came out with the handgun, he took like a half step to the right. So you could see like maybe the right side of his body. That's when the whole thing started... He swung it around from the back and he came straight up towards us on -- trying to acquire a target.<sup>84</sup>*

*It just -- it just looked like a black semi-automatic pistol.<sup>85</sup>*

*His center body mass. It would have been the right side of his body just because I didn't want to hit the unarmed guy in front of him.<sup>86</sup>*

*Initially when the shooting started, he kind of stumbled forward, but he still kind of had the gun coming towards us. So I think it did, but he was still a threat with pointing the gun at us.<sup>87</sup>*

According to Officer Vocke, he was unsure if Raymond was stumbling from being shot or if he was deliberately walking out and observed Raymond's body was almost completely out from behind David. Officer Vocke observed Raymond's handgun still out in front of himself and was pointed in the direction of the officers. Officer Vocke fired a second round from his Patrol Rifle.

Officer Vocke recalled,

*It was still the center body mass... By then he was almost completely out from behind the other individual there. So he had given up more of his body, because he had come out further... I don't know if he was deliberately walking out or if he was stumbling from being shot.<sup>88</sup>*

*It was still kind of out in front of him pointing in our direction.<sup>89</sup>*

---

<sup>84</sup> Officer Vocke, Page 22, Lines 5-9 and 13-18; Page 23, Lines 19-20; Page 24, Lines 7-11

<sup>85</sup> Officer Vocke Page 35, Lines 8-9.

<sup>86</sup> Officer Vocke, Page 23, Line 20 and 25; Page 24, Lines 1-2.

<sup>87</sup> Officer Vocke Page 25, Lines 2-6.

<sup>88</sup> Officer Vocke Page 25, Lines 20-21 and Lines 25; Page 26, Lines 1-3; Page 26, Lines 5-7.

<sup>89</sup> Officer Vocke Page 26, Lines 11-12.

According to Officer Vocke, he observed Raymond holding his handgun still out in front of him pointing in the direction of the officers. Officer Vocke observed Raymond was starting to go down to his left knee but was still holding the handgun in his right hand and pointing it in his direction. Officer Vocke fired a third round at Raymond's center body mass. Officer Vocke believed he fired a total of three or four rounds. At this point, Officer Vocke observed Raymond was down and no longer pointing the handgun at them. Officer Vocke stopped firing.

Officer Vocke recalled,

*The same thing. Center body mass. He's -- at this time it looks like he's starting to go down to his left knee, but, again, the hand still has the gun. It's still pointing in our direction.*<sup>90</sup>

*The suspect was down. At that time once he was down, his right hand was actually still hidden, but he wasn't moving anymore. He wasn't pointing towards us. I know several people, including myself, said, you know, "Be careful. We can't see that right hand still," because that's where the handgun was. But he was laying -- laying in a way where you couldn't see that hand anymore, and he wasn't pointing a handgun at us anymore.*<sup>91</sup>

*Three or four... It felt kind of just slow and deliberate until he was no longer a threat.*<sup>92</sup>

**Officer Byrd** – 9mm, eight rounds in two volleys of fire at an approximate distance of 52 feet, in a northern direction.

**First Volley** – Two to Three Rounds of fire at an approximate distance of 52 feet, in a northern direction.

According to Officer Byrd, he observed Raymond's right hand was concealed behind his back and Raymond was standing behind David. Raymond stepped approximately a foot or two away from David and removed his right hand from his back. Officer Byrd observed the muzzle of Raymond's handgun pointed in his direction. Officer Byrd believed he was going to get shot. Officer Byrd stated his head was exposed as a result of his height even though he was standing behind a police vehicle door. Officer Byrd utilized his service pistol and fired his first sequence of rounds to stop the deadly threat. Officer Byrd believed he fired two to three shots in this sequence towards Raymond's direction at his center mass near his upper torso.

---

<sup>90</sup> Officer Vocke Page 26, Lines 16-20.

<sup>91</sup> Officer Vocke Page 27, Lines 7-15.

<sup>92</sup> Officer Vocke Page 24, Line 17 and Page 25, Lines 16-17.

Officer Byrd recalled,

*Then the guy with the -- the individual who had the clothes on, then concealed himself behind the naked guy. They both dancing around. At that moment he removed himself maybe approximately a foot or two away from the naked individual and then that's when he removed his right hand from his back area. And that's when I observed the muzzle of firearm and it was coming up. And the guy was pointing right in my direction, and I fired my firearm multiple times in the direction of the suspect to stop the deadly threat. And at that time I was -- I thought he was getting - - I thought I was going to get shot. Even though I was behind a car -- I'm 6'6". My head was exposed, and I wanted to make sure that I didn't get shot in the head. I know for sure originally, I shot two to three shots in his direction.<sup>93</sup>*

*I'm thinking I'm about to get shot. And I'm thinking I don't want to get shot in the head, so that's when I start firing my service weapon... Center mass, upper torso.<sup>94</sup>*

**Second Volley** –Three to Four Rounds of fire at an approximate distance of 52 feet, in a northern direction.

According to Officer Byrd, due to his head being exposed and to avoid getting shot in the head, he adjusted his position by kneeling down onto his right knee. Officer Byrd transitioned to his knee as he simultaneously fired three to four additional rounds at Raymond's upper torso, center mass. Officer Byrd stated Raymond was approximately twenty to twenty-five feet away from him. Between firing rounds three and four, Officer Byrd observed his rounds were making contact.

Officer Byrd recalled,

*And then realizing how tall I am, I always try to practice getting on one knee for cover... I heard multiple gunshots, so I didn't -- I couldn't tell if it was officer shots or if he shot at me. I just know that I saw the muzzle and it felt like -- even though he was approximately 20 to 25 feet, it felt like he was right in my face.<sup>95</sup>*

*And then as I'm going down, I fire additional shots -- two to three shots... Upper torso area...Center mass...He was still up.<sup>96</sup>*

---

<sup>93</sup> Officer Byrd Page 9, Lines 20-25 and Page 10, Lines 1-12.

<sup>94</sup> Officer Byrd Page 33, Lines 4, 6-8, and 18-19.

<sup>95</sup> Officer Byrd Page 10, Lines 12-14 and 16-21.

<sup>96</sup> Officer Byrd Page 32, Line 25 and Page 33, Lines 1, 5, 7 and 12-13.

*Upper torso area...center mass... because he still was close to the naked guy who did not have a weapon. And I did not want to be the guy who shoots the guy without a weapon.*<sup>97</sup>

*At this point in time – so I go to two and once I get to the third, I can tell he was struck at some point because he starts going down. It went from going – so as I'm firing my rounds, it went from pointed right at me to now it's going down.*<sup>98</sup>

According to Officer Byrd, he stated yes to FID Detectives when asked if the Raymond was still standing after the third round, in his second sequence. Additionally, after noting this between the third and fourth round, Officer Byrd shot his fourth round then stopped and assessed. Officer Byrd noted Raymond no longer had a handgun in his hand. Officer Byrd stopped firing.

Officer Byrd recalled,

*Yeah, between the third and the fourth.*<sup>99</sup>

*I took a moment. I assess. And then I see him on the ground, but I don't see the firearms.*<sup>100</sup>

**Note:** Officer Byrd was answering questions regarding his second sequence/volley of shots when referring to rounds three and four.

The FID investigation revealed that Officer Byrd fired two volleys for a total of eight rounds.

**Officer Millan** - 9mm, nine rounds in a northern direction at an approximate distance of 51 feet.

According to Officer Millan, he observed David stand up. Raymond walked behind David as he kept his right hand behind his back. Officer Millan was unable to see what Raymond had in his hand. Officer Millan observed Raymond step, kind of like going around David, and towards the officers. Officer Millan saw Raymond bring his right hand around, and in front of him. Officer Millan observed that Raymond was holding a black handgun and was pointing the gun at him. Officer Millan feared for his life and made the decision to protect himself and the other officers from the imminent threat. Officer Millan was behind the ballistic panels of his police vehicle's passenger door, while sitting on the passenger seat with his right leg on the ground and his left leg inside the police vehicle. Officer Millan fired five rounds from an

---

<sup>97</sup> Officer Byrd Page 34, Lines 5, 7 and 6-8.

<sup>98</sup> Officer Byrd Page 35, Lines 21-24 and Page 36, Lines 22-24.

<sup>99</sup> Officer Byrd Page 36, Lines 5-6.

<sup>100</sup> Officer Byrd Page 38, Lines 9-11.

approximate distance of twenty-five to thirty feet. After the fifth round, Officer Millan assessed and observed the threat was no longer there since Raymond's handgun was down and Raymond was collapsing to the ground.

Officer Millan recalled,

*He's bringing his right hand from his back towards—in front of him and that's when I notice he has—he's holding an unknown handgun—black handgun...I decided to use deadly force and I shot – at the moment I thought I shot approximately five times. After the round counting at scene in the investigation, now I know it was nine. But at the time I thought I shot approximately five times. And at the moment my decision of using deadly force, he -- I estimate he was approximately 25, 30 feet away from me. And I took...to stop shooting when I observed the suspect was...threat was no longer there...The suspect is down that had a gun.<sup>101</sup>*

*But I shot all rounds on after the other one. After the nine rounds that's when I assessed... 18-22 Yes, I feel I shot five. After the fifth round that I feel that I shot, that's when I assessed and that's when I noticed that the suspect was go – like he was collapsing to the ground.<sup>102</sup>*

*I was halfway in, halfway out. I was – I was sitting on the – on the passenger seat with my right leg on the ground and my left leg inside the car while I was -- I was in that gap between the door and the car.<sup>103</sup>*

In this case, the UOFRB conducted a thorough review of the investigation. During their review, the UOFRB took into consideration that Raymond was escalated the incident when he refused to comply with officers' commands, utilized his son David as a shield, and pointed a handgun at the officers.

The UOFRB considered the minimal amount of time the officers had to react to the deadly threat caused by Raymond. The UOFRB noted that Officer Vocke, Byrd, and Millan assessed through each round and appropriately ceased fire when Raymond was no longer a threat. The UOFRB noted that other officers at scene did not fire their weapons and showed great restraint even though they were in Raymond's field of view. Officers Vocke, Byrd, and Millan's precise shots during the modified hostage situation prevented David from being injured or shot. The UOFRB also noted Officer Byrd's awareness of his height and thus his head and neck being exposed. Officer Byrd's actions were an accurate account of his articulation regarding his training and his training reposition onto a knee while firing to maintain cover. The UOFRB noted Officer Millan's articulation regarding his self-stated lack of assessment. However, officers are trained to assess the target while looking

---

<sup>101</sup> Officer Millan Page 12, Lines 6-9, 10-19 and 22-23.

<sup>102</sup> Officer Millan Page 28, Lines 18-22

<sup>103</sup> Officer Millan Page 41, Lines 11-15.

through their sights. It was evident Officer Millan was indeed assessing since he stated he watch Raymond collapse and stopped shooting.

Based on the totality of the circumstances, the UOFRB determined, and the Chief concurred, that an officer with similar training and experience as Officers Vocke, Byrd, and Millan would reasonably believe Raymond's actions presented an imminent threat of death or serious bodily injury and that the Use of Lethal Force would be objectively reasonable.

Therefore, the Chief found Officers Vocke, Byrd, and Millan's Use of Lethal Force to be In Policy, No Further Action.

### **Additional/Equipment**

**BWV** – Officer Vocke's BWV device was powered off during the incident while he was assisting with the search of the residence. Officer Vocke believed the sling of his Patrol Rifle may have caught on the BWV power switch, turning the BWV off.

Sergeant West intentionally deactivated his BWV device while still leaving it powered on because he received a phone call from his commanding officer and was making and receiving notifications through his command during this time. After he completed his notifications, Sergeant West re-activated his BWV. Private conversations involving the briefing of an incident with Department personnel was permissible under Special Order No. 12, 2015.

These issues were brought to the attention of Captain J. Mastick, Serial No. 32471, Commanding Officer, Harbor Area, who advised that these issues were addressed through informal counseling for Officer Vocke and Sergeant West. The Commanding Officer of Operations – South Bureau (OSB) and the Director of the Office of Operations (OO) concurred with this action. As such, the Chief deemed no further action was necessary.

The Office of Operations conducted a random inspection of BWVs associated to Officer Vocke from May 1, 2020 through May 31, 2020, for compliance with BWV policy specific to complete recordings of investigative or enforcement contacts with the public. The results of the inspection revealed that Officer Vocke had no deviations and was in compliance as required.

**Required Equipment** – Officer Blanco was not in possession of his baton at the time of the incident and indicated it was in left in his police vehicle. Officers Vocke and Byrd were not in possession of their HRD.

These issues were brought to the attention of Captain Mastick who advised that Officer Blanco had purchased his own impact device shortly after the incident and no further action would be taken. Officers Vocke and Byrd were each provided with a new HRD by Harbor's Training Unit and no further action would be taken. The

Commanding Officer of OSB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

**Profanity** – Officer Millan utilized profanity when he attempted to put his gloves on prior to taking Raymond into custody. Officer Byrd utilized profanity to David while attempting to take him into custody. Sergeant West utilized profanity when telling officer to preserve evidence. Officer Garcia utilized profanity while taking David into custody.

These issues were brought to the attention of Captain Mastick who advised that the issue of Sergeant West's and Officers Millan and Byrd's use of profanity was addressed through informal counseling. Due to Officer Garcia's profanity being directed at David, a Supervisory Action Item (SAI) was created and an Employee Comment Sheet was issued. The Commanding Officer of OSB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

**Duty Ammunition** – Officer Byrd had two rounds of previously authorized duty ammunition which were identified by FID detectives as Winchester Ranger, 9mm, 147 grain SXT cartridges. The two cartridges were loaded in a magazine that also contained the currently authorized Speer Gold Dot G2, 9mm Luger, 147 grain cartridges.

This issue was brought to the attention of Captain Mastick who advised that this issue was addressed by providing Officer Byrd with additional ammunition. The Commanding Officer of OSB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

**Watch Commander's Daily Report** – Lieutenant M. Loomis, Serial No. 27794, Harbor Patrol Division, entered a portion of the times of the involved officers' transportation times and monitoring locations.

Sergeant W. Manlove, Serial No. 36232, Harbor Patrol Division, noted in his Sergeant's Daily Report a transport time for Officers Blanco and Ramos at 1930 hours. However, Lieutenant Loomis's Watch Commander's Daily Report stated a time of 1915 hours.

Sergeant Manlove also noted in his Sergeant's Daily Report a monitoring time for Officers Kisling, Blanco, and Ramos at 1945 hours. However, Lieutenant Loomis's Watch Commander's Daily Report stated a time of 1920 hours.

Sergeant P. Davidson, Serial No. 31105, Harbor Patrol Division, noted in her Sergeant's Daily Report a she monitored an involved officer starting at 1900 hours. Sergeant Davidson did not note who she monitored. However, Lieutenant Loomis's Watch Commander's Daily Report stated a time of 1910 hours and noted Sergeant Davidson monitored Officers Millan, Garcia, and Lindberg.

Sergeant J. Talmage, Serial No. 34671, Harbor Patrol Division, noted in his Sergeant's Daily Report a transport time for two involved officers at 1906 hours. However, Lieutenant Loomis's Watch Commander's Daily Report stated a time of 1910 hours. Additionally, Sergeant Talmage did not note who he monitored. Sergeant Talmage noted he was relieved by Detective R. Knight, Serial No. 34929, at 2018 hours. However, Lieutenant Loomis's Watch Commander's Daily Report noted a time of 2020 hours.

Sergeant M. Cardona, Serial No. 33905, Harbor Patrol Division, noted he monitored involved officers from 2355 hours to 0515 hours. Sergeant Cardona did not note the officers that he monitored on his Sergeant's Daily Report.

These issues were brought to the attention of Captain Mastick who advised that these issues were addressed through training conducted at Harbor Supervisors Training Day. The Commanding Officer of OSB and the Director of OO concurred with this action. As such, the Chief deemed no further action is necessary.

**Protocols Subsequent to a Categorical Use of Force** – Officers involved in the OIS were utilized as part of the search team to clear the residence for victims and were seen walking around the scene unmonitored after a Code Four had been broadcast and they had been admonished.

This issue was brought to the attention of Captain Mastick who advised that this issue was addressed through counseling of the sergeants on scene and training conducted at a Harbor Supervisors Training Day. The Commanding Officer of OSB and the Director of OO concurred with this action the Chief deemed no further action is necessary.

**Visible Tattoos and Branding** – Officer Millan, while wearing a short-sleeved uniform shirt, had uncovered tattoos displayed on his upper right arm and wore a full arm sleeve, black in color, on his left arm extending below his elbow.<sup>104</sup>

This issue was brought to the attention of Captain Mastick who advised that this issue was addressed through divisional roll call training and informal counseling with Officer Millan. The Commanding Officer of OSB and the Director of OO concurred with this action. As such the Chief deemed no further action is necessary.

---

<sup>104</sup> Los Angeles Police Department Manual, Volume 3, Section 605.90 - Sworn Department uniformed and plainclothes employees, while on-duty, shall not display any tattoo(s) and/or branding(s). If an officer has a visible tattoo(s)/branding(s) that does not extend below the elbow, the officer may wear a black or flesh-colored sleeve or bandage that does not extend below the elbow... However, if the tattoo/branding is below the elbow area and cannot be covered by a three-inch square skin patch, close to the officer's skin color, the officer shall wear the long-sleeved uniform shirt or business attire, as appropriate for the assignment.



## **Audio/Video Recordings**

**Digital In-Car Video System (DICVS)** – Officers Millan’s and Kisling’s DICVS captured the locations of the witnesses at the time of the incident. It also captured the OIS, their Code Three response, and the Non-Lethal Use of Force.

Officers Byrd and Blanco’s DICVS captured their Code Three response and the OIS.

Sergeant Huett’s DICVS captured his Code Three response and the OIS.

**Body Worn Video (BWV)** – All Officers and Sergeants at scene had activated their assigned BWV. Each BWV captured the respective officers’ OIS and Non-Lethal Use of Force portions. Some parts were not captured due to BWV devices being covered by objects in front of them such as door panels or during the Non-Lethal Use of Force when they were pressed upon by David’s arm. Officers Ramos and Byrd’s BWV captured the Non-Lethal Use of Force by plain clothes Vice Officers Garcia and Lindberg who were not equipped with BWV.

**Outside Video** – FID detectives canvassed the area for additional video. Several witnesses came forward with photographs and recordings, via cell phone, and provided the evidence to FID Detective.

## **INSPECTOR GENERAL REVIEW**

### **Inspector General Analysis**

#### **Investigation Quality**

- As referenced in OIG Note No. 3 in the *Incident Summary* section of this report, David Hernandez was positioned face-down, restrained with handcuffs and an HRD, for a period of approximately one minute and 32 seconds while in the custody of Officers Ramos and Lindberg. Neither officer was asked about this matter during their respective interviews with FID, and FID's written report regarding this case did not discuss the video evidence depicting David in that position for that period of time.

Given the relevance of David's positioning to an evaluation of Officers Ramos and Lindberg's compliance with HRD policy and training standards, it would have been preferable for FID's investigation to have included questioning of the officers regarding this issue and for the relevant evidence to have been described in FID's written report regarding this case.

#### **Training Issues**

- No significant issues of concern were identified in relation to training.

#### **Equipment Issues**

- No significant issues of concern were identified in relation to equipment.

#### **Detention**

- The OIG concurs with the Chief's analysis.

#### **Tactical De-escalation**

- The OIG concurs with the Chief's analysis.

#### **Additional**

#### **Balancing Speed and Accuracy**

- *Officers must learn to balance their shooting speed with their accuracy. It is common for accuracy to degrade as shooting speed increases. As speed increases, the time between shots is reduced and may cause shooters to sacrifice accuracy based elements when shooting. (Los Angeles Police Department, Basic Firearms Manual, July 2015).*

The investigation determined that Officers Byrd and Millan fired their service pistols at Raymond eight and nine times, respectively, from a distance of approximately 50 feet and during a compressed time frame when Raymond turned and pointed a handgun at them. Additionally, during this time, Raymond was in close proximity to David.

Although the officers fired their service pistols in immediate defense of their lives, consideration for the safety of the public is also of paramount concern. The investigation of this incident revealed that several of the officers' rounds struck nearby homes as well as other structures or objects at the scene, rather than striking the officers' intended target. Officers that are involved in a rapidly unfolding dynamic incident should assess their applications of lethal force and should be encouraged to shoot no faster than the speed at which their combat accuracy can be maintained. The OIG recommends that the issue of balancing speed and accuracy when facing a lethal threat be addressed with Officers Byrd and Millan during the Tactical Debrief.

### **BWV and DICVS Policy Compliance**

SERIAL	NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICVS ACTIVATION	DICVS RECORDING OF ENTIRE INCIDENT
37062	Vocke, Matthew	Yes	Yes	No	N/A	N/A
41343	Byrd, Sterling	Yes	Yes	Yes	Yes	Yes
42169	Millan, Diego	Yes	No	Yes	Yes	Yes
41341	Blanco, Jorge	Yes	Yes	Yes	Yes	Yes
43412	Kisling, Paige	Yes	Yes	Yes	Yes	Yes
34679	Huett, James	Yes	Yes	Yes	Yes	Yes
41273	Ramos, Keno	Yes	Yes	Yes	N/A	N/A
34310	West, Jessie	Yes	Yes	Yes	N/A	N/A
41649	Lindberg, Christopher	N/A	N/A	N/A	N/A	N/A
36589	Garcia, Hugo	N/A	N/A	N/A	N/A	N/A

### **Inspector General Recommendations**

#### **Tactics**

- *Once the HRD is secured, officers shall immediately search the waistband area and then immediately place the individual in an upright, seated position or on his or her left side (left lateral recumbent position). If this is not possible due to medical or tactical issues, then placing the individual on his/her right side is an acceptable substitute. ... If the individual continues to act violently or aggressively towards the officers, one officer should use physical force to hold the person in the approved positions, described above, while the partner maintains control of the HRD's strap. (Los Angeles Police Department Use of Force – Tactics Directive No. 2.2, Hobble Restraint Device – November 2017).*

Officers Ramos and Lindberg moved David, who was handcuffed and hobbled, to the passenger side of Officers Ramos and Vocke's police vehicle, where they placed him in the left lateral recumbent position at 1826:33 hours. David remained at that location for approximately 30 minutes before LAFD rendered medical aid to him at 1858 hours, as reported by FID. During this time, David was conscious and talkative. On a number of occasions, Officers Ramos and Lindberg encouraged David to remain on his side or helped reposition him onto his left side after he had moved off of it. At 1834:10 hours however, David rolled onto his stomach and remained in a prone position for approximately one minute and thirty-two seconds. It was not until 1835:42 hours that Officer Garcia approached and took action to move David off of his stomach by assisting Officers Ramos and Lindberg in sitting him up against the nearby police vehicle.

The OIG acknowledges the efforts that Officers Ramos and Lindberg took to keep David, who was handcuffed and hobbled, on his side for an extended period of time in the aftermath of a critical incident. However, the OIG was concerned that the officers did not immediately return David to his side once he had rolled onto his stomach during that period of time, instead allowing him to stay in the prone position for more than one and-a-half minutes. As indicated by the applicable tactics directive regarding utilization of the HRD, it is not only a requirement to place subjects who are secured with an HRD into an upright seated or lateral recumbent position immediately, but it is further incumbent upon officers to ensure that subjects are kept in one of the approved positions as long as they are hobbled.

Officers Ramos and Lindberg's failure to keep David off of his stomach while he was handcuffed and hobbled constituted an unjustified and substantial deviation from approved Department tactical training regarding the use of the HRD. Therefore, the OIG recommends a finding of Administrative Disapproval for Officers Ramos and Lindberg with regard to Tactics.

### **Drawing/Exhibiting**

- The OIG concurs with the Chief's findings.

### **Non-Lethal Use of Force**

- The OIG concurs with the Chief's findings.

### **Lethal Use of Force**

- The OIG concurs with the Chief's findings.



Mark P. Smith  
Inspector General